

**EXAMINING NATIVE COMMUNITIES' PRIORITIES
FOR THE 119th CONGRESS**

HEARING

BEFORE THE

**COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE**

ONE HUNDRED NINETEENTH CONGRESS

FIRST SESSION

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EXAMINING NATIVE COMMUNITIES' PRIORITIES FOR THE 119th CONGRESS

WEDNESDAY, FEBRUARY 12, 2025

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. Lisa Murkowski, Chairman of the Committee, presiding.

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

The CHAIRMAN. Good afternoon. I call this oversight hearing to order.

Today we are following a long tradition in this Committee, and that is kicking off the new Congress with a hearing that is focused on Native communities' priorities. This Committee is the only committee in Congress that has the charge to serve the interests of Native people across our Federal Government, and we take it seriously.

The way that we live up to that charge is we listen. We listen first. And by listening to you as Native leaders highlight what is important to your communities and the work that you are doing, the Committee can ensure that our work aligns. That way, we can make progress together on the most pressing issues.

I think this approach works. Over the last few years, working together, we have made historic bipartisan progress on important issues like public safety and justice, with the passage of the Tribal Title in the VAWA 2022, as well as numerous MMIW initiatives. We are seeing huge investments in critical infrastructure such as sanitation and broadband through our work on the Bipartisan Infrastructure Law.

But there is always, always more to do. The issues and the needs are wide-ranging, which is why today we have representatives from many different sectors, including education, health, finance, and economic development.

So how we approach these issues may not be the same for every Native community. We recognize that. We respect that there are different service delivery and self-determination models across the Country, whether you are in Alaska or whether you are in Hawaii, New Mexico, Minnesota. We recognize that.

I want to take just a few words here this afternoon about the new administration, because as we are making our new start in the

Congress, the administration is as well. There has been a flurry of activity already with new OMB directives. Some of these I know have caused concerns as tribes and Native communities rely on Federal funding and on tribal programs that flow from the Federal Government's trust, treaty and statutory obligations to Native peoples. So know that we are listening.

I immediately raised your concerns to the new administration every chance I got, including in my meetings with the President's nominees. We sent a letter to OMB urging them to acknowledge that tribes have a unique political status and to clarify across the Federal Government that as the administration carries out its initiatives, it does so in a way that respects this unique political status and the Federal Government's responsibility to Native people.

I think they are starting to get it, but we have to be diligent here. There are many good Federal partners at the agencies that understand these issues, at the Department of Interior, with Secretary Burgum. They were the first to issue that secretarial order. There have been others that have now followed, so we are going to get there.

Today's hearing again will help us chart our path forward together in this Congress. I want to thank those of you that will be providing your comments to the Committee today. I look forward to hearing from you, and I welcome those that have gathered here in our Committee room.

It is not very often that I walk in and I see a line to come into the Senate Indian Affairs hearing. So recognizing that we are talking about priorities and seeing a full house is just yet one more indicator of the importance of the good work of this Committee.

I now turn to my friend and colleague, the Vice Chair, for his opening statement.

**STATEMENT OF HON. BRIAN SCHATZ,
U.S. SENATOR FROM HAWAII**

Senator SCHATZ. Thank you, Chair Murkowski. Leaders from across Indian Country, Hawaii, Alaska, welcome, and thank you for joining us today.

I would also like to extend a warm aloha to Kuhio Lewis, the CEO of the Council for Native Hawaiian Advancement, CNHA, which is the leading voice on enhancing Native Hawaiian cultural, economic, political, and community development opportunities. Thank you for your leadership for Native Hawaiians.

As the strongest voice for Native priorities in the Congress, this Committee has a responsibility to engage with and represent all of your interests, not just in Congress, but across the Federal Government. We made historic bipartisan gains over the last four years to advance Federal support for Native communities. That work literally would not have happened without our partnership.

That is why it is so important to continue this tradition, making our first order of business in the 119th Congress to put Native communities' priorities directly in the spotlight. As in prior Congresses, today's priorities hearing is a real opportunity to align what we do with the hard work that you are doing on the ground, to listen and learn what is working, what is not, and to begin to build on our bipartisan achievements, strengthen tribal sov-

ereignty, continue to uphold the Federal trust and treaty responsibilities to Native communities.

So I look forward to this conversation. Thank you.

The CHAIRMAN. Thank you, Vice Chair.

I understand that Senator Smith, you would like to make an opening statement as well.

**STATEMENT OF HON. TINA SMITH,
U.S. SENATOR FROM MINNESOTA**

Senator SMITH. Thank you so much, Chair Murkowski and Vice Chair Schatz.

I am going to be very brief because I am super interested in the panel and all of your perspectives. Buzhu, aaniin to the representatives from Minnesota's 11 sovereign tribal nations. I am so glad to see you here.

I want to maybe just put a point on what you said, Chair Murkowski, about helping the new administration, two things, one that the strong tradition of bipartisanship on this Committee I think serves us quite well. I know that everybody who is here believes in that and understands that these issues are not partisan issues.

Second, I want to just say I appreciated very much the work that I know you are already doing, that we all are doing, to make sure that this new administration does not catch up in its funding freezes or stops initiatives that are specific to Indian Country. Because those initiatives are about the trust and treaty responsibilities that the Federal Government has to Native people. It is not about any particular policy or initiative that might be out there, particularly related to diversity, equity and inclusion.

So I am just grateful for your perspective on that, and I look forward to the panel.

The CHAIRMAN. Thank you, Senator Smith.

Any other opening statements?

With that, we will turn to our witnesses. Again, we have a very esteemed panel, thank you. We will first hear from the Honorable Mark Macarro, who is the President of the National Congress of American Indians. NCAI has been meeting in Wahington, D.C. this week, and I know that many of us had an opportunity to be in front of your membership.

He will be followed by the Honorable William Smith, who is the Chairperson and Alaska Area Representative for the National Indian Health Board. Chief Bill, it is good to have you back before the Committee.

Next, we have the Honorable Rodney Butler. He is the Board President for the Native American Financial Officers Association. Welcome, good to see you.

On the education front, we have Mr. Kerry Bird, who is the Board President of the National Indian Education Association, also meeting here in Washington, D.C. this week.

Then virtually, as Vice Chair Schatz has mentioned, we have Mr. Kuhio Lewis, who is the Chief Executive Officer of the Council for Native Hawaiian Advancement.

So you know, gentlemen, we have your full testimony as part of our Committee record already. It will be included as part of that. So we would encourage you to try to keep your comments to about

five minutes, so that we have more opportunities for questions after you have given us your statements.

So we will go in the order of introduction, beginning with President Macarro.

**STATEMENT OF HON. MARK MACARRO, PRESIDENT,
NATIONAL CONGRESS OF AMERICAN INDIANS**

Mr. MACARRO. [Greeting in Native tongue.] Thank you, Chair Murkowski and Vice Chair Schatz, for allowing me to testify to this Committee on Indian Country's priorities for the 119th Congress.

My name is Mark Macarro. I am the Tribal Chairman for the Pechanga Band of Indians in California. But today I come before you as the current President of the National Congress of American Indians, founded in 1944. NCAI is the oldest, largest, and most representative Indian and Alaska Native organization serving the broad interests of Indian Country, Indian tribal governments, and their communities.

Tribal nations are inherently sovereign governments with unique legal and political status. This has been long recognized by Congress and reaffirmed by the United States Supreme Court. Congress and the administration must continue to recognize tribal nations as sovereign governments and support clear directives that reinforce the legal and political status of tribal nations.

Federal funding programs that deliver services and facilitate the sovereignty and self-determination of tribal nations are created by Federal laws and policies that reinforce the obligation of the Federal Government to fulfill its trust and treaty obligations to support tribal nations and their citizens and their institutions.

When Congress is acting under its unique obligation toward tribal nations and their citizens, they have the legal status as a political class rather than as a suspect racial class under the principles of constitutional legal analysis. The U.S. Supreme Court has consistently recognized and upheld the distinct legal and political status of tribal nations and their citizens.

The Department of Interior and Secretary Order 3416 directing its agency on implementation of administration priorities recognized that the statutory authorities and treaty and trust obligations of the Department, that is Interior, to tribal nations, are legal requirements that must not be impaired. So we ask that Congress and the administration ensure Federal funding for tribal programs is not paused, reallocated, reclassified, or de-prioritized when implementing any executive order or other administration priority.

Ensure that in limiting the Federal workforce, sufficient Federal employees are available to deliver on all the trust and treaty obligations. Tribal nations support this administration's efforts to alleviate burdensome regulations and other barriers that hinder tribal self-governance and economic development, but these efforts must be developed in close consultation at all levels of government with tribal nations to ensure there are no unintended consequences.

Now, to staffing levels and vacancies at IHS. Chronic Indian health care workforce shortages have continued to plague tribal citizens and tribal communities. Finding and keeping qualified health care professionals in tribal hospitals, clinics, and facilities

has been challenging due to current funding levels and location, primarily rural areas. The recent U.S. Office, well, I will just say OPM, the recent email from OPM to approximately 2 million Federal employees has caused confusion and concern among many, including those who tirelessly serve in Indian Country.

Among those Federal employees are health care professionals within the Indian Health Service. This action has immediate consequences for tribal citizens and tribal communities that receive life-saving services through the IHS.

Reduction to an already short-staffed health care provider does not honor the legal and political obligations made to tribal nations and puts lives at risk. We thank Congress for its recent steps to strengthen its treaty and trust obligations through its continued support of IHS advance appropriations. However, reducing health care professionals that serve our citizens and communities is a step in the wrong direction.

H.R. 741, the Stronger Engagement for Indian Health Needs Act of 2025, is a step in the right direction. We urge your support for this legislation.

The Federal Government has a fundamental duty to ensure public safety on tribal lands, rooted in treaty and trust obligations to tribal nations. This obligation has been recognized by Congress, notably in the Tribal Law and Order Act, which underscores the Federal responsibility to prevent crime in Indian Country. The BIA Office of Justice Services' 2021 report to Congress highlights a critical funding crisis, revealing that public safety and justice in Indian Country is currently funded at only 12 percent of actual need.

The funding shortfall is \$3 billion. It indicates a need for approximately 25,000 additional personnel to ensure adequate safety and justice services in tribal communities.

The Federal standard for officers is 2.4 per 1,000 people. Using the Oglala Sioux Tribe as an example, at .6 officers per 1,000 people and 53,000 tribal members, there is a huge disparity. These disparities are common amongst all our especially land-based tribes, and it cannot continue.

To address these alarming unmet needs, Congress must commit to providing sufficient funding for public safety and justice programs in Indian Country, ensuring safe and secure communities for tribal citizens.

In closing, I will close with jurisdiction. The public safety crisis in Indian Country is deeply rooted in historical jurisdictional challenges, stemming from regulations, statutes and Supreme Court decisions over the past 150 years. This legal framework endangers lives by limiting the ability of tribal nations to effectively police and prosecute criminal activities, allowing dangerous individuals to evade justice.

Congress must address and eliminate these barriers faced by tribal nation law enforcement and justice systems to empower them in safeguarding their communities.

I am over time. I appreciate the consideration. My last sentence is, we really need NAHASDA, to put the shorthand on housing. Thank you.

[Laughter.]

[The prepared statement of Mr. Macarro follows:]

PREPARED STATEMENT OF HON. MARK MACARRO, PRESIDENT, NATIONAL CONGRESS
OF AMERICAN INDIANS

On behalf of the National Congress of American Indians (NCAI), thank you for holding this hearing to address tribal priorities for the 119th Congress. I am Mark Macarro, Chairman of the Pechanga Band of Indians and President of the National Congress of American Indians (NCAI).

In 1944, tribal leaders gathered in response to federal policies that sought to terminate the legal trust relationship once and for all. Our forbears organized on the principles of dialogue and consensus, and we continue those practices today as the oldest and largest representative organization serving the broad interests of Tribal Nations and communities. We continue their work to preserve the treaty and sovereign rights of Tribal Nations, advance the government-to-government relationship, and remove structural impediments to tribal self-determination.

NCAI is honored and grateful to testify in front of the 119th Congress, and wishes to highlight the following policy priorities:

I. Appropriations

The promises made by the U.S. Government in treaties and agreements with Tribal Nations are today known as part of a trust responsibility that your forbears assumed. It is a sacred responsibility to ensure that these promises are kept. Last month, the U.S. Government threatened to stop payment on its promises, forgetting this responsibility and forgetting that millions of dollars are administered in Indian Country by Indian Country, because Tribal Nations are parties to self-governance compacts and contracts. We ask you not to take lightly actions that break your sacred trust, and to deliver on the promises of protections that have been guaranteed to us in these very halls.

We see the proposed Budget of the U.S. Government for FY 2025, and note with appreciation that it includes requests for mandatory funding of Indian Health Services (IHS) and Department of Interior (DOI) to promote permanency and stability in self-governance. We likewise see and appreciate the investments under the Bipartisan Law and the Inflation Reduction Act, and ask that you keep in mind the benefits of these and similar programs as we proceed with our testimony.

A. Indian Health Service-Expand and Sustain IHS Advance Appropriations

In a historic first, the FY 2023 Omnibus provided an advance appropriation for the Indian Health Service. Enactment of Advance Appropriations for the IHS marked a paradigm shift in the nation-to-nation relationship between Tribal Nations and the United States. Prior to that enactment, IHS was the only federal provider of health care that was on the regular, annual discretionary appropriations process. Until the entirety of the IHS budget is provided mandatory direct appropriations, it is critical that Congress continue advance appropriations. Advance appropriations for the IHS are consistent with the trust and treaty obligations reaffirmed by the United States in the Indian Health Care Improvement Act. Until all IHS spending is mandatory, including funding for full and adequate staffing, NCAI is supportive of the Workgroup in its request for expanding IHS advance appropriations to every account in the IHS discretionary budget. This includes items such as increases from year-to-year that adjust for inflation, population growth, and the Indian Health Care Improvement Fund. The IHS need-based funding cost estimate for FY 2026 is approximately \$60.04 billion.¹

Both IHS and Tribal Nations have the collaborative tools to produce reliable advance appropriation requests and implement full year advance appropriations. For this appropriations cycle, Tribal Nations will have already provided official input on the FY 2027 budget to IHS. This budget will be presented to the Department of Health and Human Services this year.

B. Department of the Interior-Bureau of Indian Affairs (BIA)

The BIA is the primary agency responsible for providing services throughout Indian Country, either directly or through compacts or contracts with Tribal Nations. The robust operation of these programs and services remain essential for the health, safety, and social and economic well-being of Tribal Nations and surrounding communities. Unfortunately, chronic underfunding and understaffing of tribal programs perpetuates systemic issues such as generational poverty in Indian Country that could be reduced or eliminated by funding tribal programs in amounts that sincerely meet the federal government's treaty and trust obligations to Tribal Nations.

¹ Workgroup publications available at: <https://www.nihb.org/category/government-affairs/indian-health-service-ihs-budget/>, accessed on: February 10, 2025.

As with IHS, spending for Indian Affairs programs should be mandatory spending with a form of automatic annual adjustment to account for inflation and changes in jurisdiction or eligibility as identified by datasets mutually agreed upon by Tribal Nations and the federal government. Additionally, inclusion of certain mandatory account payments under discretionary spending caps, such as Contract Support Costs and Payments for Tribal Leases, has resulted in a net drag on the amount of funding provided for tribal programs. This fails to fulfill treaty and trust obligations to Tribal Nations. Moving federal spending for these obligations to mandatory spending will better match the legal obligations of providing such funds and fix the unintended effects that mandatory obligations through discretionary spending can have on other discretionary spending (such as lapses in funding via continuing resolutions). In recent years the growth of Contract Support Costs and Payments for Tribal Leases is evidence of how successful these programs are for Tribal Nations, but under the current discretionary spending they must compete with the other discretionary spending accounts within Indian Affairs.

NCAI recommends \$27.1 billion for Indian Affairs programs in FY 2026, consistent with the official FY 2026 recommendation of the Tribal/Interior Budget Council (TIBC).² Within TIBC's FY 2026 recommendations are robust increases for all base-funded programs, and additional funding to address public safety and justice in tribal communities. Please keep in mind that such increases have a ripple effect that also benefit the economic and social wellbeing of our citizens and all those who visit or do business in our communities.

C. Environmental Protection Agency (EPA)

As place-based Peoples, Tribal Nations have sacred histories and maintain cultural practices that tie them to their current land bases and ancestral territories. As a result, tribal Peoples directly, and often disproportionately, suffer from the impacts of environmental degradation.

50 years after the passage of the Clean Water Act, 52 of 84 eligible Tribal Nations have EPA-approved water quality standards,³ which are a cornerstone of the Clean Water Act. Given the disparate access of tribal communities to safe, clean water, NCAI recommends a five percent tribal set-aside for each of the National Safe Drinking Water State Revolving Fund (DWSRF) and the National Clean Water Act State Revolving Fund (SRF).

Additionally, NCAI recommends \$145 million be appropriated for the EPA Tribal General Assistance Program and \$30 million for the Tribal Air Quality Management Program.

D. Reclassify Contract Support Costs and 105 (l) Tribal Leases as Mandatory Spending

NCAI, the National Tribal Budget Formulation Workgroup (Workgroup), and the Tribal Interior Budget Council (TIBC) request such sums as may be necessary to fully fund statutory and legally obligated Contract Support Costs (CSC). We hold the position that contract support costs should be provided through mandatory spending. This must be done as an interim step until the full IHS and Bureau of Indian Affairs (BIA) budgets are moved to mandatory funding. IHS and the BIA provided estimated contract support costs for FY 2026 to the Workgroup and TIBC at \$1.07 billion for IHS and over \$421 million for the BIA. Within the IHS, approximately 60 percent of the budget is operated by Tribal Nations under the authority of the Indian Self-Determination and Education Assistance Act (ISDEAA).

The Act allows Tribal Nations to assume the administration of programs, services, functions, and activities previously carried out by the federal government. The IHS and BIA transfer operational costs for administering programs to Tribal Nations through the "Secretarial amount," which is the amount IHS and BIA would otherwise have spent to administer the programs. In other words, the U.S. Government has contracted with Tribal Nations to fulfill the duties of its trust obligation to those Nations; this is a workable system that delivers superior services and it must be defended against cuts and funding freezes. In addition, Tribal Nations are authorized to receive an amount for contract support costs that meets the statutory definition and criteria. If IHS and BIA's budgets continue to be funded through annual discretionary appropriations, NCAI, the Workgroup, and TIBC support that the ap-

² TIBC Tribal Representatives' FY 2026 Budget Submission to the Department of the Interior, April 9, 2024, accessed at: <https://cdn.sanity.io/files/raa5sn1v/production/9c4e1e12d80bfbc11d349b24dd86ecf1a89ee23.pdf>

³ Environmental Protection Agency, EPA Actions on Tribal Water Quality Standards and Contacts, <https://www.epa.gov/wqs-tech/epa-actions-tribal-water-quality-standards-and-contacts>, accessed February 10, 2025.

appropriation continue in such sums as may be necessary, due to the mandatory nature of these contract support costs obligations.

The ISDEAA also authorizes IHS and BIA to enter a lease for a facility upon the request of a Tribal Nation or tribal organization for the administration or delivery of programs, services, and other activities under the Act. Lease requests have increased rapidly as the usage of the program authority has expanded; many of the Tribal Nations have increasingly entered into 105(l) lease agreements as an immediate solution to the ongoing issue of insufficient funding for maintaining, repairing, and reconstructing facilities.

However, including accounts such as contract support costs and 105(l) leases that are mandatory in nature under discretionary spending caps has led to a decrease in the amount of funding provided for other tribal programs. This carries a negative impact on the federal government's capacity to fulfill its commitments to Tribal Nations. Tribal Nations fully support requests that all the IHS and BIA budgets be provided as mandatory spending, but that contract support costs and payments for 105(l) Tribal Leases be immediately reclassified as mandatory.

The CSC & 105(l) leases within the BIA have increased from 9 percent in FY2015 to 18 percent in the FY2025 President's Budget Request. The BIA's 105(l) lease program received a 53 percent increase in the FY 2024 enacted budget. In FY 2019, there were a total of 2, 105 (l) leases and by FY 2023, the number of 105(l) lease renewals and requests increased to 562.

Given current 105(l) lease program trends in IHS and BIA, Tribal Nations have concerns that 105(l) costs could have a detrimental impact on overall increases for IHS and BIA, including funds for patient care and trust services. It is with this in mind that the IHS Workgroup and Tribal Interior Budget Council (TIBC) continues to urge that all the IHS and Bureau of Indian Affairs budgets be classified as mandatory spending. Furthermore, they strongly urge that contract support costs and payments for 105(l) be immediately transitioned to mandatory spending. These national tribal advisory groups urge this immediate action to ensure that spending for IHS and BIA under discretionary caps can prioritize addressing Indian Country inequities made worse by inadequate budgets.

E. Hold Harmless for DOI—Indian Affairs, IHS and Other Programs for the Benefit of Tribal Nations

The DOI—Indian Affairs and IHS budgets represent only a small portion of overall Congressional spending compared to the national budget. While spending cuts or other budget control measures, such as discretionary spending caps, may severely affect tribal programs, they would have minimal impact on total federal spending. If Congress considers funding reductions in FY 2026, it is crucial that the DOI—Indian Affairs, IHS, and other programs benefiting Tribal Nations be protected from cuts.

II. Public Safety and Justice

A. Funding for Safer Communities

Among the essential components of the federal government's treaty and trust responsibilities to Tribal Nations is the obligation to protect public safety on tribal lands. Congress has long acknowledged this obligation, which Congress reaffirmed in the Tribal Law and Order Act (TLOA) expressly "acknowledging the federal nexus and distinct federal responsibility to address and prevent crime in Indian Country."⁴

In March of 2024, the Bureau of Indian Affairs—Office of Justice Services released its 2021 *Report to the Congress on Spending, Staffing, and Estimated Funding Costs for Public Safety and Justice Programs in Indian Country*.⁵ The report fulfills the Bureau of Indian Affairs (BIA) reporting requirements within the Tribal Law and Order Act of 2010 by documenting the existing and needed spending, staffing, and estimated costs for BIA-funded Public Safety and Justice Programs in Indian Country. The 2018 report identified that public safety and justice in Indian Country was funded at a mere 14 percent of need (a \$2.33 billion shortfall). According to the 2021 estimates, this has fallen further to 12 percent (a \$3.06 billion shortfall). The \$3.06 billion dollar shortfall equates to approximately 25,655 additional personnel required to adequately serve Indian country.

⁴Tribal Law and Order Act, 34 U.S.C. § 10381(j).

⁵U.S. Dep't of the Interior, Bureau of Indian Affairs, Office of Justice Serv., Report to the Congress on Spending, Staffing, and Estimated Funding Costs for Public Safety and Justice Programs in Indian Country, 2021 (Feb. 2024), https://www.bia.gov/sites/default/files/media_document/2021_tloa_report_final_508_compliant.pdf

This inadequate funding for tribal criminal justice and public safety has resulted in staggering rates of violent crime and victimization on many Indian reservations. Congress acknowledges that a longstanding public safety crisis in America has contributed to an ever-growing drug crisis and specifically to a public safety and law enforcement emergency in Indian Country.⁶

A Department of Justice (DOJ) study found that more than four in five American Indian and Alaska Native (AI/AN) adults have experienced some form of violence in their lifetime.⁷ Among AI/AN women, 55.5 percent have experienced physical violence by intimate partners in their lifetime, and 56.1 percent have experienced sexual violence.⁸ NCAI appreciates Congress' enactment of the Violence Against Women Act (VAWA) Reauthorization Act of 2022, which has helped address violent crime in Indian Country, reinstating Tribal Nations' authority to address crime in their communities and providing resources to make up for lost time. Going forward, robust funding for these VAWA-related programs and tribal police departments and justice systems is absolutely essential to improve public safety on the ground in tribal communities.

Because BIA base funding is so inadequate, Tribal Nations often seek short-term, competitive grants to try to make up a portion of the shortfall. This is especially true with regard to funding for justice systems, such as tribal courts, which are even more severely underfunded than policing and detention. Between 2021 and 2024 the DOJ awarded an average of \$84.3 million through its Coordinated Tribal Assistance Solicitation (CTAS) grant program to Tribal Nations.⁹ While this funding remains as a critical resource to tribal governments it still falls dramatically short of the estimated need identified in the 2021 OJS report to Congress stated above.

In 2018, the U.S. Commission on Civil Rights (USCCR) found that there continues to be “systematic underfunding of tribal law enforcement and criminal justice systems, as well as structural barriers in the funding and operation of criminal justice systems in Indian Country” that undermine public safety. Tribal justice systems must have resources so they can protect women, children, and families, address substance abuse, rehabilitate first-time offenders, and put serious criminals behind bars—no matter where those criminals are from. Well-functioning criminal justice systems, basic police protection, and services for victims are fundamental priorities of any government and Tribal Nations are no different.

B. Criminal Jurisdiction

The public safety crisis confronting Indian Country is not a result of happenstance, but rather the outcome of a series of jurisdictional challenges created by regulations, statutes, and the Supreme Court over the past century and a half. Together, this legal framework puts lives at risk because it prevents Tribal Nations from effectively policing, arresting, trying, and sentencing bad actors and dangerous criminals.

Congress should work to remove as many barriers as possible from Tribal Nation law enforcement officers and justice systems. Allowing Tribal Nations to fully take the actions necessary to ensure the public's safety is a cost-effective tactic to reduce crime in America while respecting and strengthening tribal sovereignty.

III. Infrastructure

A. Housing

Housing infrastructure in Indian Country continues to lag behind the rest of the United States.¹⁰ In what is still the most comprehensive review of housing needs within Tribal Nations, over 70 percent of existing housing stock in tribal commu-

⁶The United States Senate Committee on Indian Affairs. (2009, June 9). Senate Indian Affairs Committee to conduct hearing on law and order in Indian Country—Indian Affairs Committee. Indian Affairs Committee. <https://www.indian.senate.gov/newsroom/press-release/democratic/senate-indian-affairs-committee-conduct-hearing-law-and-order-indian-country/>

⁷U.S. Department of Justice, *Violence Against American Indian and Alaska Native Women and Men: 2010 Findings from the National Intimate Partner and Sexual Violence Survey, 2*, (2016), <https://www.ncjrs.gov/pdffiles1/nij/249736.pdf>.

⁸*Ibid.*

⁹“Coordinated Tribal Assistance Solicitation (CTAS) Awards,” (October 2024), <https://www.justice.gov/tribal/awards>.

¹⁰U.S. Department of Housing and Urban Development Office of Public and Indian Housing, Native American Programs, FY25 Congressional Justifications 13–2,(2024) https://web.archive.org/web/20240930155324/https://www.hud.gov/sites/dfiles/CFO/documents/2025_CJ_Program_-_Native_American_Programs.pdf, last accessed February 10, 2025.

nities is in need of upgrades and repairs, many of them extensive.¹¹ In 2017, the U.S. Department of Housing and Urban Development (HUD) reported that “the lack of housing and infrastructure in Indian Country is severe and widespread, and far exceeds the funding currently provided to tribes.”¹²

The lack of affordable housing contributes to homelessness and overcrowding. Tribal communities experience overcrowded homes at a rate of 16 percent, roughly eight times the national average.¹³ HUD research also shows that such overcrowding has a negative effect on family health and contributes to the ongoing problems of domestic violence and poor school performance in Indian Country.¹⁴ Funding new construction across the board will help alleviate issues of overcrowding, but Tribal Nations find that they must spend an ever larger portion of Federal dollars (and their own matched funding) on trying to maintain and operate existing stock instead of expanding to meet needs.¹⁵ In addition to the historic funding shortfalls, the location of many tribal communities increases the material and labor costs of home construction and impose additional housing development costs upon communities already confronting enormous economic challenges.¹⁶ Building materials must often be brought into tribal communities from miles away over substandard roads or even by air, and the availability of “qualified and affordable contractors” is limited.¹⁷ Given these extensive funding needs, it is critical that Congress (1) support the reauthorization of NAHASDA; (2) permanently reauthorize the Tribal HUD-VASH Program; and (3) introduce and pass legislation that aims to increase homeownership rates in Indian Country.

1. Support for the reauthorization of the Native American Housing and Self-Determination Act of 1996 (NAHASDA).

The Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) is intended to help bridge the gap in housing needs in Native communities and allow Tribal Nations to exercise self-determination at the local level. Annual funding for the Native American Housing Block Grant (NAHBG, also known as “Indian Housing Block Grants” or IHBG)—the key source of funding under NAHASDA—has remained flat at around \$650 million since FY 2010 while housing needs continue to grow.

NAHASDA expired on September 30, 2013. Since 2013, NAHASDA reauthorization legislation has been introduced and has been reviewed to some degree in each Congress leading up to the 119th Congress, but unfortunately none of those bills were ever signed into law. NAHASDA was created to offer flexibility in tribal housing planning, execution of funds, and the administration of individual housing programs. Under NAHASDA, Indian tribes and tribally designated housing entities (TDHEs) can conduct new construction, rehabilitation, and acquire affordable housing, as well as provide infrastructure updates and various support services. The Indian Housing Block Grant funds can also be used for certain types of community facilities. Since its creation, almost 41,500 affordable homes have been built or acquired and an additional 105,000 affordable homes have been restored on tribal lands and in Alaska Native communities.

Reauthorization provides more certainty for future appropriations and better assists TDHEs in developing successful housing options. We strongly urge you to make your support known to other members of Congress. We must work together to uphold tribal sovereignty and self-determination.

NAHASDA authorizes housing programs such as the IHBG and the Indian Community Development Block Grant, which enables Tribal Nations and their housing

¹¹ U.S. Department of Housing and Urban Development, Fiscal Year 2017 Congressional Justifications, 11–12, (2016), https://web.archive.org/web/20241225104440/https://www.hud.gov/sites/documents/FY_2017_CJS_COMBINED.PDF, last accessed February 10, 2025.

¹² Broken Promises Report, at 137, (2018), <https://www.usccr.gov/pubs/2018/12-20-Broken-Promises.pdf>.

¹³ U.S. Department of Housing and Urban Development, Housing Needs of American Indians and Alaska Natives in Tribal Areas: A Report From the Assessment of American Indian, Alaska Native, and Native Hawaiian Housing Needs, (2017), <https://www.huduser.gov/portal/sites/default/files/pdf/HNAIHousingNeeds.pdf>.

¹⁴ Department of Housing and Urban Development (HUD), Fiscal Year 2017 Congressional Justifications, 11–4, https://web.archive.org/web/20241225104440/https://www.hud.gov/sites/documents/FY_2017_CJS_COMBINED.PDF.

¹⁵ U.S. Department of Housing and Urban Development Office of Public and Indian Housing, Native American Programs, FY25 Congressional Justifications 13–3, (2024) https://web.archive.org/web/20240930155324/https://www.hud.gov/sites/dfiles/CFO/documents/2025_CJ_Program_-_Native_American_Programs.pdf, last accessed February 10, 2025.

¹⁶ Broken Promises Report, at 138, (2018), <https://www.usccr.gov/pubs/2018/12-20-Broken-Promises.pdf>.

¹⁷ *Ibid.*

authorities to design and implement their own housing, community development, and infrastructure programs. This authorization has resulted in the construction of tens of thousands of housing units in Indian Country. As it rests on tribal decision-making, NAHASDA has also resulted in an increase in tribal capacity to address housing and other needs. It is most important that this Congress enact robust increases in Native American Programs at HUD.

2. Rollback burdensome Build America, Buy America (BABA) requirements for tribal housing projects.

The Build America, Buy America Act (BABA) establishes a domestic content procurement preference—the “Buy America Preference” (BAP)—which mandates that products purchased for infrastructure projects funded by federal grants must be produced in the United States. This legislation was enacted on November 15, 2021, as part of the Infrastructure Investment and Jobs Act. Tribal Nations and TDHE’s have voiced concerns with BAP and the implications concerning cost increases, prolonged project timelines, and costly and onerous compliance burdens. BABA is a bureaucratic unfunded mandate which undoes the recent funding increases for NAHASDA programs that took a whole generation to achieve.

HUD’s updated guidance on the Build America, Buy America Act (BABA) includes waivers and exceptions, such as the “De Minimis” waiver, which allows for a portion of project costs to be exempt from BABA requirements. Even so, many projects will still face significant cost increases due to the need to source materials domestically, which are more expensive and less readily available, especially in rural and remote areas.

IV. Farm Bill

Agriculture is a major economic, employment, and nutrition sector in Indian Country. According to the 2022 Census of Agriculture, nearly 60,000 American Indian or Alaska Native (AI/AN) producers¹⁸ on more than 55 million acres for the production of crops, livestock, or both.¹⁹ These farms and ranches sold over \$3.8 billion of agricultural products. Agriculture remains the second leading employer in Indian Country and is the backbone of the economy for many Tribal Nations.

NCAI is a founding and executive committee member of the Native Farm Bill Coalition, along with the Intertribal Agriculture Council, the Shakopee Mdewakanton Sioux Community, and the Indigenous Food and Agriculture Initiative. NCAI fully supports the Native Farm Bill Coalition, who will also be testifying, and we want to emphasize the need for more opportunities for self-governance, co-management, funding flexibility, and direct management and implementation of programs.

The nutrition title is of particularly high importance to Indian Country. With 24 percent of AI/AN households receiving Supplemental Nutrition Assistance Program (SNAP) benefits, 276 Tribal Nations administering the Food Distribution Program on Indian Reservations (FDPIR), 68 percent of AI/AN children qualifying for free and reduced price lunches, and American Indians and Alaska Natives making up more than 12 percent of the participants in the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), the importance of food assistance in Indian Country cannot be overstated. Any cuts to SNAP, FDPIR, WIC, or school lunch programs directly diminish the food available to Native children, pregnant women, elders, and veterans—who in some cases rely on these programs as their only source of meals.

Additionally, food assistance programs like FDPIR must be provided the means and support to purchase traditional, locally grown food in their food packages. Traditional and locally grown foods from Native American farmers, ranchers, and producers promote healthy living, cultural sustainability, and a revival of traditional practices, all while fostering economic development. NCAI urges Congress to promote the expansion and permanent establishment of the Food Distribution Program on Indian Reservations (FDPIR), grant tribal eligibility to administer the Supplemental Nutrition Assistance Program (SNAP), and allow the dual use of both SNAP and FDPIR. To realize many of these priorities there needs to be an expansion of 638 authority under the Indian Self-Determination and Education Assistance Act (ISDEAA) broadly across the Department of Agriculture (USDA) and its programs, as well as the reduction and elimination of match requirements.

¹⁸United States Department of Agriculture, 2022 Census of Agriculture, Table 52 (2024), https://www.nass.usda.gov/Publications/AgCensus/2022/Full_Report/Volume_1_Chapter_1_US/usv1.pdf

¹⁹USDA, 2022 Census of Agriculture, Table 61.

Conclusion

NCAI appreciates the opportunity to present Indian Country's priorities for the 119th Congress to the Committee. We look forward to working with the Indian Affairs Committee and its members during this Congress to advance the interests of Tribal Nations in accordance with the federal trust responsibility.

The CHAIRMAN. Well summed up. Thank you, President Macarro. Next, we will go to Chief William Smith, Chief Bill.

STATEMENT OF HON. WILLIAM SMITH, ALASKA AREA REPRESENTATIVE; CHAIRMAN, NATIONAL INDIAN HEALTH BOARD

Mr. SMITH. Chairwoman Murkowski, Ranking Member Schatz, and distinguished members of this Committee, on behalf of the National Indian Health Board and the 574-plus sovereign federally recognized American Indian and Alaska Native Tribal Nations we serve, thank you for the opportunity to provide testimony on the Tribal Health Priorities for the 119th Congress.

My name is William Smith. I am Eyak, and I am a veteran of the United States Army. I serve as the Alaska Area Representative and Chairman of the National Indian Health Board. I also serve as the Chairman of the Alaska Native Health Board and the Vice President of the Valdez Native Tribe of Alaska.

The U.S. Constitution recognizes three sovereigns: the Federal Government, States governments and Indian tribes. As sovereigns, tribes predate the United States and retain the rights of self-government. The Supreme Court has upheld Indian-specific legislation determining that it is political in nature, rather than based on an unconstitutional racial classification.

Recent executive orders and guidance have unintentionally impacted the Indian Health System. We commend the Chairwoman on her letter to the administration urging the need to meet the trust and treaty obligation of the Federal Government to tribes. We concur that the Department of Health and Human Services should issue a secretarial order that acknowledges the political status of the tribal nations and their citizens.

Plainly stated, the Federal trust and treaty responsibility to tribes exempts all tribal departmental programs from the impacts of recent executive orders and guidance. Further, we urge the Committee and Congress to continue to educate and work with the new administration to fulfill its legal obligations to tribal nations.

The Indian Health System continues to be dramatically underfunded. Providing the Indian Health Service with full and mandatory funding will ensure the Federal Government is meeting its trust and treaty responsibilities and obligations to the tribal nations for health.

The Indian Health Service National Tribal Budget Formulation Workgroup has estimated that full funding for 2026 would be \$63 billion. Congress further authorized the Indian Health System to bill Medicare and Medicaid and the Children's Health Insurance program to address funding needs.

As Congress considers Medicare reform, it is essential that the Federal trust responsibility for Indian health care be honored at 100 percent FMAP for the services received through the Indian Health Service and exempting Indian Health Service is preserved.

Exempting Indian Health Service American beneficiaries from the reforms, including work requirements, is consistent with the United States' trust and legal responsibility to tribes.

Medicare reforms must be delivered and understood for its impact to Indian Health programs, even though those changes do not immediately appear to do so. These resources are critical to address the needs of Indian Country, including behavioral health. The strain on the available resources for Indian Health System cannot meet the demand of the rising behavior and health issues nationwide.

Using the grant as the primary vessel to deliver behavioral health funding or any funding limits a tribe's ability to deliver critical services and can deter patients from accessing care and lack of access, culture, providing treatment, all components of the behavioral health crisis in Indian Country.

We ask Congress to strengthen tribal behavioral health treatments and programs by increasing resources, providing the flexibility and self-governance and funding to support expanding access to tribal traditional healing services. Historical trauma combined with social, political and environmental factors has impacted the health status of American Indian and Alaska Native mothers and infants. Further, lack of investment has resulted in a higher rate of maternal and infant mortality.

Congress should support improving maternal and infant outcomes for Native mothers and children to provide the funding set aside in the Maternal and Child Health Service block grants. Investing in a robust maternal and birth health workforce will improve data for American Indians and Alaska Native mothers and infants.

Many of these recommendations have been highlighted in two recent reports. The first, the Way Forward Report by Alyce Spotted Bear and Walter Soboleff Commission on Native Children and the National Indian Health Board Tribal Prenatal to Three Policy Agenda.

Congress should adopt the 2024 health care package introduced in the 118th Congress. This package includes a number of tribal priorities, including reauthorization of the Special Diabetes Program for Indians for two years for \$200 million per year and Medicare tribal flexibility.

Indian Health Service provides scholarships and loan repayment opportunities incentives for the medical profession to work in Indian Country. Any tax reform legislation considered in the 119th Congress should make Indian Health scholarships and loan programs tax-exempt and be a priority with other similar programs.

Tribal sovereignty and the success of self-determination and self-governance through the adoption of demonstration and pilot programs. We stand ready to work with this Committee on this endeavor.

In conclusion, the Federal Government made promises in tribal treaties to provide for, among other things, health care of tribal citizens. These priorities are each a step to meet those promises and fulfill the trust and treaty responsibility.

I want to thank this Committee for the opportunity to speak. The bottom line is, Congress has the ability to look at the broken prom-

ises and see how every treaty was broken. And they have an obligation to fulfill those deals, because those like one chief said, we have already paid. We have paid and paid and paid. We have paid with our land; we have paid with our lives. And we paid the deals. We have given up our lands, and the United States has promised they would take care of our health and education. So, paid in full, that is what we are looking for.

Thank you.

[The prepared statement of Mr. Smith follows:]

PREPARED STATEMENT OF HON. WILLIAM SMITH, ALASKA AREA REPRESENTATIVE;
CHAIRMAN, NATIONAL INDIAN HEALTH BOARD

Chairwoman Murkowski, Ranking Member Schatz, and distinguished members of the Committee, on behalf of the National Indian Health Board (NIHB) and the 574+ sovereign federally recognized American Indian and Alaska Native Tribal Nations we serve, thank you for this opportunity to provide testimony on the Tribal Health Priorities for the 119th Congress. My name is William Smith. I am Eyak and I am a veteran of the United States Army. I serve as the Alaska Area Representative and Chairman of the National Indian Health Board (NIHB). I also serve as the Chairman of the Alaska Native Health Board and the Vice President of the Valdez Native Tribe, of Valdez, Alaska.

Trust and Treaty Obligation

The U.S. Constitution recognizes three sovereigns: the Federal government, States, and Indian Tribes. As sovereigns, Tribes predate the United States, and retain rights of self-government.¹ When the United States was established, the Constitution's Indian Commerce Clause granted Congress the authority to pass legislation specific to Indian Affairs.² The Supreme Court has upheld Indian-specific legislation, determining that it is political in nature, rather than based on an unconstitutional racial classification.³ Health care reform legislation that reflects the unique federal trust responsibility to provide health care for American Indians and Alaska Natives is subject to rational basis review and does not violate the equal protection clause so long as it is "tied rationally to the fulfillment of Congress' unique obligation toward the Indians."⁴

Congress has the constitutional authority and responsibility to provide for Indian health care. Tribes signed treaties and negotiated other agreements with the United States in which they ceded vast amounts of territory in exchange for certain solemn promises. These promises include protecting Tribal self-government and providing for the health and well-being of Indian peoples.⁵ Indian treaties are the supreme law of the land, and in carrying out these treaty obligations, the United States has "moral obligations of the highest responsibility and trust."⁶

Congress has passed numerous Indian-specific laws to provide for Indian health care, including establishing the Indian health care system and passing the Indian Health Care Improvement Act (IHCIA), 25 U.S.C. § 1601 *et seq.* In the IHCIA, for instance, Congress found that "Federal health services to maintain and improve the health of the Indians are consonant with and required by the Federal Government's historical and unique legal relationship with, and resulting responsibility to, the American Indian people." *Id.* § 1601(1). Congress has also legislated to provide Indians with access to general health programs, such as Medicaid, while creating Indian-specific protections within those programs that reflect this unique political relationship.

Congress has full constitutional authority to legislate with regard to Indian health care, and should continue to promote Tribal sovereignty and uphold the government-to-government relationship between the United States and Tribes in fulfill-

¹ *Worcester v. State of Ga.*, 31 U.S. 515, 559 (1832).

² U.S. CONST., art. I, § 8, cl. 3; see also *Morton v. Mancari*, 417 U.S. 535, 552–55 (1974).

³ *Morton*, 417 U.S. at 555; see also *Moe v. Confederated Salish & Kootenai Tribes of Flathead Reservation*, 425 U.S. 463, 479–80 (1976); *Washington v. Washington State Commercial Passenger Fishing Vessel Ass'n*, 443 U.S. 658, 673 n.20 (1979); *United States v. Antelope*, 430 U.S. 641, 645–47 (1977); *Am. Fed'n of Gov't Employees, AFL-CIO v. United States*, 330 F.3d 513, 520–21 (D.C. Cir. 2003).

⁴ *Morton*, 417 U.S. at 555.

⁵ See *United States v. Winans*, 198 U.S. 371, 380–81 (1905).

⁶ *Seminole Nation v. United States*, 316 U.S. 286, 296–97 (1942); see also U.S. CONST., art. VI, cl. 2; *Worcester*, 31 U.S. at 539.

ment of its trust and legal responsibilities in any health care reform proposal it considers.

Tribal Impacts of Recent Executive Orders and Guidance

Recent Executive Orders and guidance have had inadvertent impacts on the Indian health system. From the recent hiring freeze, deferred resignation solicitation, and pause on federal financial assistance, the Indian health system trying to understand how these orders and guidance impact the system while continuing to meet the federal government's trust and treaty obligations. For example, the Office of Management and Budget (OMB) memorandum (M-25-13) put an immediate halt on federal financial assistance, including grants and loans to Tribal programs. Despite the memorandum being rescinded under OMB M-25-14, the risk of immediate implementation of administrative policies like this harm the operation of the Indian health system by restricting critical resources. During the pause of federal funding, many Indian healthcare clinics were immediately impacted, delaying and pausing services so individuals had to be rescheduled. The halt in funding brought many back to an era before advance appropriation, readying plans to furlough program staff, reduce program hours, and temporarily close specific programs. During previous periods of financial pause, staff and providers left the Indian health system, seeking job security exacerbating clinics which are already understaffed. The Indian health care clinic cannot risk any harmful changes during this Administration that negatively impact our operations and our ability to serve our citizens.

Our workforce is also being compromised by the Executive Order instituting a federal hiring freeze for civilian employee positions and instructing the creation of the plan to reduce the size of the federal workforce. This has been accompanied by a deferred resignation solicitation which went out to federal employees in Tribal programs and the IHS. Currently, IHS has a workforce gap of 30 percent and a 36 percent vacancy rate for physicians, that hinders our ability to provide timely care to American Indian and Alaska Native (AI/AN) beneficiaries.⁷ On January 31, 2025, NIHB, along with three other national Tribal organizations, sent a letter requesting exemptions for IHS from any plans, policies, or incentives that freeze hiring or seek to decrease the federal workforce, including any planned federal layoffs, attrition, or reduction quotas. While we understand that 600-series providers may still be hired, there are conflicting reports whether this is being honored at present. The Indian health system must have the ability to onboard, administer, and operate its programs with the staffing necessary to meet accreditation standards and keep facility doors open. IHS operations need to be able to bring in staff in behavioral health, clinical administration and oversight, community health representatives, scheduling, and billing. The Department of Veterans Affairs has issued a list of staff exempt from the hiring freeze which goes beyond the 600-series of providers. The IHS needs at least the same exemptions and more. As the United States has a responsibility to care to AI/AN people, it also has a responsibility to ensure clinics have their needs met⁸—this includes having the appropriate workforce to improve the health status of AI/AN beneficiaries.

We commend the Chairwoman for her letter of February 4, 2025 to the Administration urging the need to continue to meet the trust and treaty obligations of the federal government to Tribes. We concur that the Department of Health and Human Services should issue a secretarial order which acknowledges the political status of Tribal Nations and their citizens, plainly states the federal trust and treaty responsibilities to Tribes, and exempts all Tribal departmental programs from the impacts of recent Executive Orders and guidance. Further, we urge this Committee and Congress to continue to educate and work with the new Administration to fulfill its legal obligations to Tribal Nations.

The Indian Health Service Funding

AI/ANs experience worse health outcomes compared with the rest of the U.S. population. AI/ANs continue to experience historical trauma from damaging federal policies, including those of forced removal, boarding schools, and taking of Tribal lands, and continuing threats to culture, language, and access to traditional foods. These compounding events have resulted in AI/AN populations experiencing high rates of poverty, high unemployment rates, barriers to accessing higher education, poor housing, lack of transportation, geographic isolation, and lack of economic mobility which all contribute to poor health outcomes. Historic and persistent under-

⁷ 25 U.S.C. § 1601.

⁸ U.S. Government Accountability Office, Indian Health Service: Agency Faces Ongoing Challenges Filling Provider Vacancies, GAO-18-580, published August 15, 2018, available at: <https://www.gao.gov/products/gao-18-580>, accessed on: January 27, 2025.

funding of the Indian health system has resulted in problems with access to care and has limited the ability of the Indian health system to provide the full range of medications and services that could help prevent or reduce the complications of chronic diseases.

IHS exists to serve the health care needs of AI/ANs and to address those disparities. Despite the efforts of IHS, the Centers for Disease Control and Prevention (CDC) reported that the life expectancy for AI/ANs has declined by nearly 7 years, such that the life expectancy for our People is only 65.2 years, which is the same life expectancy of the total U.S. population in 1944. This is 11.2 years less than the non-Hispanic White population's life expectancy of 76.4 years. Today the Indian health system includes 43 Indian hospitals (51 percent of which are Tribally operated) and 650 Indian health centers, clinics, and health stations (86 percent of which are Tribally operated).⁹ When specialized services are not available at these sites, health services are purchased from public and private providers through the IHS-funded purchased/referred care (PRC) program. Additionally, 41 urban Indian programs offer services ranging from community health to comprehensive primary care.

Year after year, the federal government has failed AI/ANs by drastically underfunding the IHS far below the demonstrated need. For example, in 2023, IHS spending for medical care per user was only \$4,078, while the national average spending per user was \$13,493. This correlates directly with the unacceptable higher rates of premature deaths and chronic illnesses suffered throughout Indian communities. This is despite years of statements to this effect. In 2018, the U.S. Commission on Civil Rights found that: "Federal funding for Native American programs across the government remains grossly inadequate to meet the most basic needs the federal government is obligated to provide. Native American program budgets generally remain a barely perceptible and decreasing percentage of agency budgets."¹⁰

During the last four years, bipartisan collaboration between Congress and the Administration has resulted in just a 11.6 percent increase to the IHS budget, although actual inflation has been significantly higher. In reality, many of the increases in funding over the past several years have barely supported population growth, rising medical inflation, staffing funding for specific new/expanded facilities, and the rightful funding of legal obligations such as Contract Support Costs (CSC). For example, based on the House and Senate budgets drafted for consideration for FY 2025, CSC and section 105(l) leases made up 87–93 percent of the increase assessed. These costs will continue to grow following the *Becerra v. San Carlos Apache Tribe* and *Becerra v. Northern Arapaho Tribe* Supreme Court rulings. A more significant funding increase, including necessary investments in adequate facilities, modernized infrastructure, and a qualified workforce, is needed so that quality healthcare services can be delivered in a safe manner within all AI/AN communities. Only then will we expect to see a noticeable correlating improvement in health outcomes for our people.

The IHS National Tribal Budget Formulation Workgroup has estimated that full funding for the Indian health system should be \$63 billion in FY 2026. Providing full and mandatory funding will ensure the federal government is meeting its trust and treaty obligations to Tribal Nations for health care. As a step toward achieving this goal, we request Congress to make common sense budgetary changes to help advance the IHS budget by immediately reclassifying CSC and section 105(l) lease payments to mandatory appropriations. We further request Congress support and enact full and mandatory funding for the Indian Health Service.

Maintaining Federal Funding for Medicaid Provided Through the Indian Health System

As Congress approaches Medicaid reform, it should ensure that any reform proposal honors the federal responsibility for Indian health care, rather than passing that obligation on to the states through per capita allocations, block grants, mandatory work requirements, or other mechanisms that may be under consideration. The United States has a unique trust responsibility to provide Tribal health care, founded in treaties and other historical relations with Tribes, and reflected in numerous statutes. In recognition of that federal obligation, Congress amended the Social Security Act over 40 years ago in 1976 to authorize Medicare and Medicaid reimburse-

⁹ Indian Health Service. (2024). The Indian Health Care System—Fact Sheet. Retrieved from: https://www.ihs.gov/sites/newsroom/themes/responsive2017/display_objects/documents/fact-sheets/IHSProfile.pdf

¹⁰ U.S. Commission on Civil Rights. "Broken Promises: Continuing Federal Funding Shortfall for Native Americans." December 2018. Available at: <https://www.usccr.gov/files/pubs/2018/12-20-Broken-Promises.pdf>

ment for services provided in IHS and Tribally operated health care facilities.¹¹ The House Report explained that “These Medicaid payments are viewed as a much-needed supplement to a health care program which has for too long been insufficient to provide quality health care to the American Indian. [. . .]”

At the same time to meet the trust responsibility, Congress acted to ensure that States would be reimbursed at a 100 percent federal medical assistance percentage (FMAP) for Medicaid services to American Indians and Alaska Natives that are received through the Indian health system. The House Committee observed that since the United States already had an obligation to pay for health services to Indians as IHS beneficiaries, it was appropriate for the U.S. to pay the full cost of their care as Medicaid beneficiaries. The Committee noted that because the 100 percent FMAP provision was limited to services provided by or through the Indian health system, it was being provided for IHS eligible Indians and Alaska Natives for whom the United States has an obligation and who are already eligible for “full Federal funding of their services.”¹² This key provision ensures that the responsibility to pay for Medicaid services to AI/ANs remains with the federal government, and is not shifted onto the States. The Committee recognized that many States with large native populations also have large amounts of public land, and thus a limited tax base for providing health services, making it doubly unfair to shift the federal health obligation to them.

Medicaid reimbursements are critically important in filling the gap created by chronic underfunding of IHS and are a critical source of funding for Tribes seeking to take over IHS hospital systems through self-governance agreements. Medicaid funds provide \$1.2 billion to the IHS,¹³ and provides coverage for 36 percent of non-elderly AI/ANs and over half of AI/AN children.¹⁴

As important as Medicaid is to the Indian health system, Medicaid reimbursements received through the Indian health system only represent a fraction of one percent of total Medicaid funding. For instance, IHS Medicaid spending in 2025 is projected to be only 0.21 percent of total Medicaid spending. As a result, preserving full federal funding for Medicaid services received through the Indian health system will not adversely affect the overall effort to cap and control federal Medicaid spending. Per capita caps and changes to FMAP, even when limited to the general population or Medicaid expansion, can cause States to reduce eligibility requirements or services levels, which also impact Indian health programs adversely.

It is critical that Congress maintain full federal funding of Medicaid services provided in IHS and Tribal healthcare facilities. Tribal healthcare delivery systems need Medicaid funding to be financially viable, as many of their patients are low income and have no other form of coverage. Indian health facilities see anywhere from 30 to 60 percent of their funding from Medicaid alone. Tribal healthcare delivery systems are the only systems that can ensure coordinated, quality of care for the beneficiaries they serve, and the only providers with the incentive to ensure that care is not fragmented. Tribal healthcare providers reinvest in their communities, and Tribal healthcare delivery systems are essential to local Tribal communities and economies. Ensuring full federal funding for Medicaid services received through the Indian health system is also essential to Tribal self-governance. Self-governance Tribes have achieved some remarkable health care improvements and efficiencies, but without the ability to bill Medicaid, those systems are not financially viable.

As Congress considers Medicaid reform, it is essential that the federal trust responsibility for Indian health care be honored and 100 percent FMAP for services received through the Indian health system is preserved. This policy position has been previously supported by the National Governor’s Association during past Medicaid reform efforts.¹⁵ Exempting AI/AN beneficiaries from such reforms, including work requirements, is consistent with the United States trust and legal responsibilities to Tribes. Medicaid reform must be deliberative and understand that it will impact Indian health programs, even when those changes do not immediately appear to do so.

Address the Behavioral Health Crisis in Indian Country

American Indian and Alaska Native populations carry generations of historic trauma which continue to impact our communities through myriad medical and be-

¹¹ 42 U.S.C. § 1395qq and § 1396j

¹² H.R. REP. No. 94–1026, pt. III, at 21 (1976), as reprinted in 1976 U.S.C.C.A.N. 2782, 2796.

¹³ FY 2025 Congressional Justification, Indian Health Service.

¹⁴ “Medicaid’s Role in Health Care for American Indians and Alaska Natives”, MACPAC. February 2021. Accessed 1/28/25, <https://www.macpac.gov/wp-content/uploads/2021/02/Medicaid-Role-in-Health-Care-for-American-Indians-and-Alaska-Natives.pdf>

¹⁵ National Governors Association, Resolution HHS–18, “Indian Health Services,” March 1, 2006.

havioral health. The removal of Tribal nations from their lands, the breaking of cultural and familial bonds through removal of AI/AN children to boarding schools, and the broken promises of the federal government have contributed to some of the greatest disparities in mental health and substance use disorder diagnoses in our communities. AI/AN populations experience the highest rate of misuse for opioids, prescription pain relievers and other medication misuse. Since 2018, AI/AN opioid overdose deaths have increased by 174 percent. Despite an increase in Tribal Opioid Response (TOR) awards, competitive funding is difficult for many Tribes to acquire. The strain of readily available resources for the I/T/U system cannot meet the demand of rising behavioral health issues nationwide.

Use of grants as the primary vehicle to deliver behavioral health funding, or any other funding, limits Tribal providers' ability to deliver clinical services, reporting requirements deter patients from accessing care, and lack of access to culturally competent providers and treatments all compound the behavioral health crisis in Indian Country. We ask Congress to strengthen Tribal behavioral health treatment and programs by increasing resources, providing for flexibility and self-governance of funding, and support expanded access to Tribal traditional healing services.

HHS/IHS should invest in culturally centered and Tribally driven behavioral health programming and facilities. For example, HRSA can support infrastructure outside of state-awards to support aging and dilapidated behavioral health facilities that are Tribal and Native-operated. IHS can expand the types of projects eligible under the Joint Venture Construction Program (JVCP) to include standalone behavioral health and substance use disorder (SUD) treatment facilities. Provide additional and proactive technical assistance to Tribal Nations to access and apply for available funding to treat and prevent SUD and modify existing standards for cultural considerations such as extending timelines and allowing for non-evidence-based practices as our cultural models are often underreported.

Allow for behavioral health funding to be flexible and broadly applicable to behavioral health conditions. Current grants silo funding and prevent its use in treating mental health and SUD conditions together, limit integrated care with medical teams, and prevent polysubstance treatment or culturally informed approaches.

Investment in critical workforce development is essential to moving forward by ensuring HHS Divisions support AI/AN workforce development by authorizing and expanding additional provider types like behavioral health aides and tax exemption the IHS Scholarship and Loan Repayment programs as an incentive for participation. Also, midlevel providers should receive equal compensation with other provider types under Medicare and Medicaid.

Finally, we recommend reduce federal bureaucracy by allowing SAMHSA programs to be available to Tribal Nations by amending access to the Alcoholic and Substance Abuse Block Grant (SUBG), under SAMHSA, to be available to Tribal Nations. Further, make common sense reforms to the Government Performance and Results Act (GPRA) to allow Agencies to lower reporting barriers for access to behavioral health services.

Protecting the Next Generation

Congress should support improved maternal and infant outcomes for Native mothers and children by providing a funding set-aside in the Maternal Child Health Services Block Grant, investing in a robust maternal and birthing health workforce, and improving data on AI/AN mothers and infants.

Historical trauma compounded with social, economic, political, and environmental factors have impacted the health status of AI/AN mothers and infants. The lack of federal investments, culturally appropriate workforce, and quality data on AI/AN maternal and infant health stifle effective programming to improve health outcomes for our next generation.

Many Native women miss prenatal care visits due to lack of accessible services and lack of trust with their provider. Giving birth in Indian Country frequently means leaving your family, home, and support system to travel hundreds of miles to the nearest birthing center or hospital. For Native mothers with complicated pregnancies, this could mean months away from home. When expecting mothers have to travel so far from home to give birth, it can immediately complicate a pregnancy. Many times, new mothers may begin labor, drive hundreds of miles to reach their birthing hospital and then be turned away because they are not far enough along in labor to be admitted. Other times, Native women are stereotyped in their prenatal visits causing them to avoid necessary services. Due to preconditions like diabetes and hypertension, untreated conditions during pregnancy can increase a women's risk of maternal mortality.

As a result, AI/AN women are three times more likely to die from pregnancy-related causes than non-Hispanic White women. Further, AI/AN infants are born prematurely, underweight, and twice as likely to die before the age of one.

To address these disparities, HHS must create set-asides for Tribal and Native-led organizations, invest in a robust maternal health workforce, and improve data on AI/AN mothers and infants to address socioenvironmental factors that inhibit healthy outcomes for our next generation of AI/AN populations. The funding in the MCH Block grant can be used to increase mid-wife and doula training to support a larger birthing workforce in Native and rural communities. Improving access to the birthing workforce can also help Native moms-to-be also stay in their communities to deliver, which supports cultural traditions and keeps mothers and newborns closer to supportive networks which can improve infant health outcomes.

We must provide Tribal set-aside for the Maternal Child Health Services Black Grant. Today, this funding goes to state governments and leaves out Indian Country. There is a need for expanded prenatal health education. This extra funding can provide screening for suicide, SUD, and intimate-partner violence during prenatal and perinatal care. This funding would also improve continuum of care coordination with medication assisted treatment (MAT) providers. It would also provide health promotion efforts to reduce maternal and infant mortality.

Congress and the Administration should invest in workforce development for maternal health. Create a temporary set-aside in the IHS Loan Repayment Program for doulas and midwives. Require cultural humility training for providers who regularly engage with AI/AN populations. Work with Tribal Colleges and Universities to build a pipeline of AI/AN practitioners.

Maternal and child health data is often inaccurate or incomplete, leading to underrepresentation of the true impact of AI/AN maternal and child health needs. IHS and state data systems should report on maternal and child health. Additionally, mandate the collection of race and ethnicity data from IHS awardees.

Many of these recommendations have been highlighted in two recent reports, the first *The Way Forward: Report of The Alyce Spotted Bear & Walter Soboleff Commission on Native Children* and the NIHB's *Tribal Prenatal-3 Policy Agenda*. Further, the care for our children does not stop at birth, post-natal care for new mothers is critical for providing education and access to behavioral health resources that help mothers and their children. As children age, many of them access health care through school-based clinics. More should be done to meet children's needs by providing care where they are and by providing access to behavioral health services that help them understand the links of historical trauma to suicide and other behavioral health indicators and seek to connect them with cultural traditions which can strengthen their identities and links to community.

Adoption of the 2024 Healthcare Package

An early iteration of the Further Continuing Appropriations and Disaster Relief Supplemental Appropriations Act of 2025 (H.R. 10455), introduced in the 118th Congress on December 17, 2024, included a series of popular and critically important healthcare legislation. Many of the proposals included long-time requests and priorities of Indian Country.

The Special Diabetes Program for Indians (SDPI) would have received a two-year extension at \$200 million per year. Until last year, SDPI had been flat-funded for over 20 years at \$150 million per year. This program is the only public health program to have reduced the instances of diabetes, and has to date save \$520 million for Medicare in the prevention of end stage renal disease. The piecemeal, short-term extensions of this valuable public health program jeopardize program stability and make it difficult to plan for staffing and programmatic activities. Adopting a long-term extension with an increase is a long-standing request of Tribal Nations.

Medicare telehealth flexibilities would have been extended through December 31, 2026. Among other important Medicare flexibilities included in the package, Medicare telehealth has become a significantly important tool to provide health care services for Elders. Because Indian Country exists across vast expanses of rural and frontier, having access to telehealth services, particularly audio-only services, can improve access to distant site specialty care and supports better monitoring of chronic conditions. Extension of these flexibilities will continue to support improved health outcomes for our Elders.

Additional legislative reauthorizations and policy changes were included in the initial legislation. These reauthorizations are critical to providing services to our Elders, our nation's and Indian Country's readiness for future public health crises, and supporting behavioral health, and more. Among the legislation and policy changes: Medicaid pharmacy payment reform, reauthorization the Older Ameri-

cans Act, the Pandemic and All-Hazards Preparedness Act (PAHPA), and the SUPPORT Act. Without adoption or reauthorization, these programs will continue to be in limbo.

Expand Tribal Self-Governance Beyond IHS at the U.S. Department of Health and Human Services

Fifty years ago, Congress passed the Indian Self-Determination and Education Assistance Act (ISDEAA), 25 U.S.C. § 5301 *et seq.* Through the passage of ISDEAA, Congress enabled Tribes to contract and compact to run their own health care programs while also preserving Tribes' right to choose that services continue to be provided directly by the Indian Health Service. ISDEAA has proven to be one of the most important policy choices that has restored to Tribes their rightful sovereignty to determine and improve the health and well-being of our People.

In 2000, P.L. 106-260, included a provision directing HHS to conduct a study to determine the feasibility of a demonstration project extending Tribal Self-Governance to HHS agencies other than the IHS. The HHS Study, submitted to Congress in 2003, determined that a demonstration project was feasible. In the 108th Congress, Senator Ben Nighthorse Campbell introduced S. 1696, the Department of Health and Human Services Tribal Self-Governance Amendments Act, that would have allowed these demonstration projects. The legislation unfortunately did not advance out of that Congress, but it continued an important discussion on the success and feasibility of Tribal self-determination and self-governance beyond IHS. A second study was completed in 2011 by the U.S. Department of Health and Human Services Self-Governance Tribal Federal Workgroup which reiterated the feasibility and underscored the need for legislation. Since 2024, the HHS Secretary's Tribal Advisory Committee Tribal Self-Governance Expansion Workgroup has worked to build momentum for a demonstration proposal and proposed legislative language. On the 50th anniversary of ISDEAA, it is time to reaffirm Tribal sovereignty and the success of self-determination and self-governance.

Indian Health Service Scholarship and Loan Repayment Program Reforms

IHS provides scholarship and loan repayment opportunities as an incentive for medical professionals to work in the Indian health system due to chronic short staffing issues. Unlike other similar federal programs, these payments are taxable. This means, that the agency is paying taxes on top of the loan and scholarship payments, which means fewer providers are able to be given loan repayment and scholarship under the current appropriations. In the IHS's FY 2025 Congressional Justification, it estimated that if the scholarship and loan repayment programs were tax exempt, it could have awarded an additional 218 loan repayment contracts. Further, this program does not provide for part-time commitments or include mid-level providers which could further extend the reach and bring more providers in to help address the chronic provider shortage at Indian health facilities. Any tax reform legislation considered in the 119th Congress should make reforms to the IHS scholarship and loan repayment programs to increased their success in support of an adequate workforce for Indian health.

Conclusion

The above highlighted Tribal priorities are not exhaustive, but they can be accomplished in the 119th Congress. These priorities, if enacted by Congress, will bring us a step closer to meeting the trust and treaty obligation of the federal government to Tribal Nations. The federal government made promises in its Tribal treaties to provide for, among other things, the healthcare of Tribal citizens. The policies and legislation outlined throughout this testimony will help repair one portion of the broken promises of the federal government and will support a step towards healthier Tribal communities.

The CHAIRMAN. Thank you, Chief Smith.
Welcome, Mr. Butler.

**STATEMENT OF HON. RODNEY BUTLER, CHAIRMAN,
MASHANTUCKET PEQUOT TRIBAL NATION; PRESIDENT,
NATIVE AMERICAN FINANCE OFFICERS ASSOCIATION
(NAFOA)**

Mr. BUTLER. [Greeting in Native tongue] Chairman Butler, Mashantucket Pequot, President of NAFOA. Good afternoon, my friends. My name is Chairman Butler, and I am from the

Mashantucket Pequot Tribe, and I am also here as the president of NAFOA.

Chair Murkowski, Vice Chair Schatz, and distinguished members of the Senate Committee on Indian Affairs, I thank you for the opportunity to testify today as the president of NAFOA, founded as the Native American Finance Officers Association, on our economic priorities for the 119th Congress. This hearing on the needs of tribal communities is crucial now, with a new administration, a new Congress, and new opportunities and challenges.

For over 40 years, NAFOA has worked to grow tribal economies and strengthen tribal finance through advocacy, education, and policy development. Our member tribes and tribal enterprises represent the diversity of Indian Country's economic landscape, including tribal gaming, energy projects, agricultural ventures, Federal contracting, and many, many more.

First, we will continue to emphasize that the relationship between the Federal Government of the United States and tribal nations is rooted in a political relationship between sovereigns, not a racial or any other classification. The Supreme Court unanimously affirmed this in *Morton v. Mancari* and has consistently upheld this tenet. This political relationship, recognized within the United States Constitution, forms the foundation for modernizing the Federal treatment of tribal governments and their enterprises.

The recent issuance of executive orders and subsequent funding pause raised significant concern among tribal nations. Tribes across the Country reported challenges with access to critical systems, a lack of information from Federal agencies, and considerable uncertainty about the potential impacts of such actions.

Regardless of the percentage of the total budget, a pause in Federal funding, whether temporary, prolonged, or permanent, impacts the ability of tribes to offer crucial programs and services to our tribal citizens. To this end, I want to thank you in particular, Chair Murkowski, for the letter that you sent to OMB recognizing our unique status and requesting a government-wide exemption that acknowledges that tribal nations must not be impacted by executive orders related to DEI.

At NAFOA, we remain committed to monitoring the impacts of Federal actions and helping our member tribes with tools and resources to navigate adverse Federal policies. We urge Congress and the administration to ensure all tribal programs and Federal offices serving tribal nations remain fully operational and adequately staffed. This includes recognition that tribal program funding fulfills legal obligations, protection of funding streams supporting tribal economic development, and maintenance of Federal staffing levels needed for program delivery.

The continuation of vital technical assistance programs, preservation of agency expertise in tribal matters, and protection of tribal-specific program offices are essential for supporting tribal economic growth.

It is important to mention that tribally-owned entities under the umbrella of the tribal government are critical to create jobs and to supplement funding for tribal programs that are underfunded in the Federal budget.

In addition to protecting trust and treaty obligations, we urge Congress to advance tribal tax parity legislation that was introduced by our good friend, Senator Cortez Masto, with tremendous bipartisan support. Over the past several Congresses, the NAFOA has worked with both the Senate and the House on legislation to address longstanding disparities in the treatment of tribal governments and tax policy.

Based on feedback from Congress and our tribes, we have made important revisions to our legislative proposals that we are confident will allow for inclusion of key provisions in the upcoming tax package that will be considered by Congress.

Congress must address longstanding disparities between State and tribal governments, and ensure that tribal governments are treated under the same provisions as States for key tax purposes, including excise taxes, bond issuance, pension plans, general welfare benefits and charitable organizations. Unfortunately in recent years the disparity between States and tribes has only increased. According to the Brookings Institute, from 2014 to 2020, State governments issued \$47 billion annually in non-taxable municipal bonds, compared to only \$84 million by tribal governments.

Finally, empowering tribal governments by providing them full parity with State and local governments in accessing tax-exempt bond financing will enhance job creation, generate sorely-needed governmental revenue for social services, stimulate infrastructure and business development on tribal lands, and accelerate the diversification and resiliency of tribal economies, particularly in private sectors.

Another critical provision in our legislative recommendation is the creation of the annual \$175 million New Market Tax Credit for low-income tribal communities. The New Market Tax Credit program attracts private capital to economically distressed communities by providing tax credits to investors. Unfortunately, tribes are too often unable to access these credits. Our recommendation is a set-aside for these credits for Indian Country.

Finally, we recommend that any tax legislation considered by Congress include tribal Low-Income Housing Tax Credits. This program provides tax incentives for developers to create affordable housing, but credits are often unavailable to tribes.

We recommend these and other tax priorities be included in the larger tax framework being considered by Congress this year. By modernizing the tax code's treatment of tribal governments and providing targeted economic development incentives, tribal tax legislation will help tribes generate governmental revenue and deliver essential services to build stronger reservation economies.

We also urge Congress to make sure the Treasury Department's Office of Tribal and Native Affairs become permanent and continue the Tribal Treasury Advisory Committee. These entities are essential partners for tribal governments and their business entities. They allow for efficient and effective consultation, communication and ensuring that tribes can access tax incentives and economic development tools.

We also support the effort to reclassify both contract support costs for the Tribal 105(l) lease program, to mandatory, which is consistent with the statutory language in court decisions. This re-

classification will allow tribal governments to continue to exert tribal control over the provisions of programs within their communities and exercise self-determination over tribal government infrastructure.

Lastly, NAFOA encourages Congress to increase the amount available to tribes through the Department of Interior's Indian Loan Guarantee Program and authorizing language that would allow it to work with the New Market Tax Credits. As currently written, tribes cannot take advantage of the New Market Tax Credits if going through the Indian Loan Guarantee Program. This simple fix will have a significant impact on the ability of tribal nations to access capital.

In closing, the Federal Government's trust and treaty responsibility and obligations must be upheld through concrete action to support tribal economic development and financial sovereignty. NAFOA's recommendations represent an important step toward fulfilling these obligations, and creating sustainable tribal economies that benefits both the Federal Government and tribal governments.

I thank you again for your time today. [Phrase in Native tongue.] Thank you all.

[The prepared statement of Mr. Butler follows:]

PREPARED STATEMENT OF HON. RODNEY BUTLER, CHAIRMAN, MASHANTUCKET PEQUOT TRIBAL NATION; PRESIDENT, NATIVE AMERICAN FINANCE OFFICERS ASSOCIATION (NAFOA)

Introduction

Greetings Chairwoman Murkowski, Vice Chair Schatz, and Members of the Senate Committee on Indian Affairs. Thank you for the opportunity to testify today on behalf of NAFOA, founded as the Native American Finance Officers Association, on our organization's priorities for 2025 and the 119th Congress. This hearing on the needs of tribal communities is crucial now, with a new Administration, a new Congress, and new opportunities and challenges. For over 40 years, NAFOA has worked to grow tribal economies and strengthen tribal finance through advocacy, education, and policy development. Our member tribes and tribal enterprises represent the diversity of Indian Country's economic landscape, including tribal gaming, energy projects, agricultural ventures, federal contracting, and more.

Trust and Treaty Obligations

First, we will continue to emphasize that the relationship between the Federal Government of the United States and the Tribal Nations is rooted in a political relationship, not a racial or any other classification. The Supreme Court unanimously affirmed this in *Morton v. Mancari* and has consistently upheld his tenet. This political relationship, recognized within the U.S. Constitution, forms the foundation for modernizing the federal treatment of tribal governments and their enterprises.

The recent issuance of executive orders and subsequent funding pause raised significant concern among Tribal Nations. Tribes across the country reported challenges with access to critical systems, a lack of information from federal agencies, and considerable uncertainty about the potential impact of such actions. We recognize there are varying degrees of effect on Tribal Nations regarding federal funding—where a substantial portion of some tribes' budgets are federal funds, and others have limited federal funding. Regardless of the percentage of the total budget, a pause in federal funding, whether temporary, prolonged, or permanent, impacts the ability of tribes to offer crucial programs and services to tribal citizens. At NAFOA, we remain committed to collecting and sharing stories of impact and helping our member tribes with tools and resources to navigate future federal funding issues.

We recognize the challenges that lie ahead for the federal budget. We urge Congress and the Administration to ensure all tribal programs and federal offices serving Tribal Nations remain fully operational and adequately staffed. This includes recognition that tribal program funding fulfills legal obligations, protection of fund-

ing streams supporting tribal economic development, and maintenance of federal staffing levels needed for program delivery. The continuation of vital technical assistance programs, preservation of agency expertise in tribal matters, and protection of tribal-specific program offices are essential for supporting tribal economic growth.

Tax Parity

In addition to protecting Trust and Treaty obligations, we urge Congress to advance Tribal Tax Parity legislation. During the 117th Congress, Senator Cortez Masto introduced S. 5048, the Native American Tax Parity and Relief Act, and last year NAFOA worked with her office and Congresswoman Gwen Moore to introduce H.R. 8318, the Tribal Tax Investment and Reform Act. I want to express our support for the proposed legislation that would create vital tax parity between tribal governments and state governments while strengthening tribal economic development opportunities. I would like to highlight three of H.R. 8318's critical changes.

First, Section 3 of 8318 addresses longstanding disparities by treating tribal governments under the same provisions as states for key tax purposes, including excise taxes, bond issuance, pension plans, general welfare benefits, and charitable organizations. As the Treasury Tribal Advisory Committee aptly states in its 2020 Subcommittee on Dual Taxation Report, Tribal Nations “pre-date the formation of the United States and possess inherent and treaty-recognized sovereignty. As a fundamental aspect of that sovereignty, Tribal Nations possess immunity from being taxed by the United States federal and state governments. Moreover, Tribal lands subject to the jurisdiction of Tribal governments are not subject to direct taxation by outside governments.”

Unfortunately, in recent years, the disparity between states and tribes has only increased. According to the Brookings Institution, from 2014 to 2020, “state governments issued \$47 billion annually in non-taxable municipal bonds, compared to a total of \$84 million by tribal governments. This equates to a 559-fold gap in using tax-exempt government bonds.”

Finally, ending this discriminatory treatment of tribal governments by providing them full parity with state and local governments in accessing tax-exempt bond financing will enhance job creation, generate sorely needed governmental revenue for social services, stimulate infrastructure and business development on tribal lands, and accelerate the diversification and resiliency of tribal economies, particularly in their private sectors. In addition, restoring parity would “create spillover benefits for non-tribal citizens in those areas.”

The cost to the federal government would be low. According to the Congressional Budget Office, “increasing tax-exempt bond access for tribes would reduce federal tax revenue by an estimated \$77 million over 10 years. In comparison, the estimated total cost of the federal tax exemption for municipal bonds was \$27 billion in fiscal year 2022.”

Another critical change 8318 makes is creating an annual \$175m New Market Tax Credit (NMTC) for low-income Tribal Communities. NMTC Program attracts private capital to economically distressed communities by providing tax credits to investors. Unfortunately, tribes are too often unable to access these credits. Since the NMTC program's inception, Native CDEs have had to compete against non-Native CDEs in what has proven to be an unlevel playing field for NMTC allocations. This section addresses the low rate of NMTC availability in Indian Country by creating a credit set aside. Establishing this set aside will enable more Tribal Nations and communities to grow the proven benefits that those who have already leveraged this important financing tool have generated.

Finally, Section 9 of this legislation increases the effectiveness of Tribal Low-Income Housing Tax Credits (LIHTC). The LIHTC program provides tax incentives to developers to create affordable housing, but credits are often unavailable to tribes. This section modifies the definition of a difficult development area to include an Indian area to determine eligible basis, thereby explicitly including Tribes in the LIHTC program criteria. A good example of the success of this program is the Knik Homes #1 project in Wasilla, Alaska. Developed by the Knik Tribe the project includes the construction of 32 new elder townhome units. The total project costs are \$18.7 million—almost \$7 million of which was covered by LIHTC equity and an AHP grant.

Congress should pass this legislation to fulfill its trust and treaty obligations and support tribal economic sovereignty. The legislation recognizes tribal governments face unique challenges in accessing capital and developing sustainable economies due to historical disadvantages and statutory restrictions. By modernizing the tax code's treatment of tribal governments and providing targeted economic development incentives, this legislation would help tribes generate governmental revenue, deliver essential services, and build stronger reservation economies. The provisions

are carefully crafted to respect tribal sovereignty while creating practical tools for tribal governments to meet their citizens' needs. With strong bipartisan support from Indian Country, this legislation represents an important step toward tax fairness and tribal self-determination.

NAFOA's staff has been collecting and recording examples of the practical, on-the-ground impact that the Tribal Tax Parity bill would make. I would be happy to share those examples with Members of the Committee, as NAFOA understands it is essential to demonstrate why these changes matter, how they impact our communities, and the potential impact of inaction.

Treasury Matters

NAFOA strongly urges Congress to make the Treasury Department's Office of Tribal and Native Affairs permanent and to continue the Tribal Treasury Advisory Committee (TTAC). These entities are essential for providing technical assistance and guidance, supporting tribes in accessing tax incentives and economic development tools, and developing guidance on general welfare programs and tribal enterprises. They also play a crucial role in ensuring appropriate tribal consultation on tax and economic policies and facilitating government-to-government engagement. Additionally, authorizing changes need to be made that would allow the IRS to give in-depth information and technical assistance to tribes, similar to the types of technical assistance available with many other tribal programs, as well as a place where tribes can receive guidance and clarification on tax, particularly tax credit, issues.

NAFOA strongly encourages the Treasury to complete regulations on tribal entities with the abovementioned improvements and asks the Treasury to finalize general welfare benefit regulations with enhanced guidance on trust arrangements and program interactions. We also ask the Committee to protect funding and staffing for programs supporting tribal economic development, support the modernization of tax provisions affecting tribal governments and enterprises, and ensure tribal consultation requirements are maintained and strengthened.

To help ensure that tribal voices are heard at the Treasury, NAFOA urges this Committee to advance legislation making the Office of Tribal and Native Affairs (OTNA) permanent with dedicated funding and staffing, as the OTNA is one of the best examples of federal outreach and assistance. Established in 2022, the OTNA's mission is (1) to advise on Tribal policy and program implementation, (2) to coordinate Tribal consultations, and (3) to manage the Treasury Tribal Advisory Committee (TTAC). Currently, the office has a budget of \$2 million and employs 8 staffers, and even in a short time, it has already had a positive impact that far exceeds its cost.

General Welfare Exclusion Rulemaking

The proposed regulations implementing the Tribal General Welfare Exclusion Act require finalization with several critical improvements. We need supplemental guidance on trust arrangements and deferred benefits to help tribes develop sophisticated benefit structures. Clear standards for using trusts to provide general welfare benefits and guidance on the interaction between tribal general welfare benefits and other federal program eligibility are essential. The development of detailed training plans in consultation with tribes and TTAC, the establishment of formal transition periods when lifting audit suspensions, and the focus on prospective enforcement rather than challenging past tribal programs will ensure smooth implementation.

Tribally Chartered Corps Rulemaking

The proposed Treasury regulations regarding wholly-owned tribal entities represent significant progress but require completion with several key provisions. We need explicit confirmation that tax treatment extends to all subsidiary entities wholly owned through tribal parent entities and clear guidance that tribally chartered entities can assert the same excise tax benefits as their owning tribes. Additionally, the Treasury must provide guidance on entities owned in part by persons other than tribes and recognize diverse tribal corporate structures beyond Section 17 corporations.

Appropriations Reclassification

Unfortunately, the federal funding and appropriations cycles have lacked consistency in recent years. With the current challenges facing federally funded programs, NAFOA recommends changing tribally funded programs under the discretionary classification to the mandatory classification. Reclassifying programs would help tribes with financial planning and make budget forecasting far more accurate, something that is very important to the business development of tribes that have an oversized reliance on federal programs and funds. One of the programs that NAFOA strongly supports for reclassification is the Contract Support Costs and Payments

for Tribal Leases. For the last two years, the President's Budgets has called for reclassification of these programs and Congress's S. Rept. 118-83.

Tribal Energy Development

Tribal Nations are poised to contribute significantly to energy development in the United States. It is critical that tribes can fully participate in the clean energy transition through their tribally chartered entities and have access to the Inflation Reduction Act (IRA) Elect/Direct Pay energy credits as Congress intended. This requires addressing administrative burdens in current elective pay systems for clean energy tax credits and creating clear pathways for tribal-private partnerships in renewable projects. The economic potential for tribes in this sector is substantial, but we need proper structures to access these opportunities.

Access to capital remains a fundamental challenge for tribal economic development. Implementing set-asides within the New Markets Tax Credit program for tribal projects, recognizing tribal areas as difficult development areas for housing credit purposes, and modernizing the Indian Employment Tax Credit would significantly enhance tribes' ability to finance crucial projects and create sustainable economies.

Indian Loan Guarantee Program

NAFOA encourages Congress to increase the amount available to tribes through the Department of Interior's Indian Loan Guarantee Program (ILGP) and an authorizing fix that would allow it to work with the NMTC. NAFOA knows the issues and challenges Tribal Nations encounter when accessing capital for economic development projects. As currently written, tribes cannot take advantage of the NMTC if going through the Indian Loan Guarantee Program. This is a major oversight with a simple fix that would cost almost nothing to remedy and would have a significant impact on the ability of Tribal Nations to access capital.

Carcieri

Lastly, NAFOA supports bipartisan legislation that addresses and fixes the *Carcieri* decision. To quote the recent intertribal organization letter, "It must be acknowledged and understood that at its core, the *Carcieri* decision is an attack on the Indian Reorganization Act (IRA) of 1934, which Congress enacted to stop the massive loss of Tribal homelands inflicted by the General Allotment Act of 1887 (Allotment Act)." It is our hope that this Congress will enact the fix.

Closing

The federal government's trust and treaty obligations must be upheld through concrete action to support tribal economic development and financial sovereignty. These recommendations represent an important step toward fulfilling these obligations and creating sustainable tribal economies.

Thank you for your attention to these vital matters affecting tribal economies and sovereignty. I am happy to answer any questions.

The CHAIRMAN. Thank you.
We go to Mr. Kerry Bird.

STATEMENT OF KERRY D. BIRD, BOARD PRESIDENT, NATIONAL INDIAN EDUCATION ASSOCIATION

Mr. BIRD. Chair Murkowski, Vice Chair Schatz, esteemed members of the Committee, good afternoon. My name is Kerry Bird, and I am President of the National Indian Education Association. I am a citizen of the Sisseton Wahpeton Oyate of South Dakota and a descendant of the Lumbee Tribe of North Carolina.

On behalf of the students, educators, and tribal nations NIEA serves, I appreciate the opportunity to testify today on the critical issues surrounding Native education and the Federal Government's trust and treaty obligations to American Indians, Alaska Natives and Native Hawaiians.

Sovereignty is the foundation of effective education in Indian Country. The Federal Government's trust responsibility to Native education is a foundational obligation firmly established through treaties, laws, and legal precedents. But today, Native students in

both BIE schools and public schools face chronic underfunding and deteriorating infrastructure. Worse yet, Federal policies often fail to support the inherent sovereignty of tribal nations in managing their own educational systems, leaving communities stuck in bureaucratic red tape.

To address these issues, we urge Congress to take decisive action in five key areas. First and foremost, Congress must affirm the political status of Native students. The Federal trust and treaty obligations to tribal nations for education and the Federal trust obligations to Native Hawaiian education are not discretionary commitments. They are legal obligations.

This duty has been reaffirmed through centuries of legislation, beginning with the Civilization Fund Act of 1819, codified as a Federal directive in the Snyder Act, and later strengthened under the Indian Self-Determination and Education Assistance Act as well as the Tribally Controlled Schools Act of 1988.

The trust responsibility to individual Native students in public schools has also been reinforced through the Johnson-O'Malley Act of 1935, Title VI of the Elementary and Secondary Education Act of 1965, and the Native Hawaiian Education Act of 1988.

Tribal nations and Native communities should be empowered to design educational systems that reflect their values, traditions, and economic priorities. These programs are not simply a matter of cultural pride, but also critical to the future and economic success of our communities.

Second, we need stable and adequate funding. Our schools require consistent investment, not fluctuating annual budgets that create uncertainty. Advance Appropriations would ensure that Native education programs are shielded from budgetary disruptions, allowing for long-term planning and success. Additionally, Congress must protect Title VI, Johnson-O'Malley and Impact Aid programs, ensuring Native students in public schools receive the resources they are owed.

Third, we must expand self-governance and education and empower tribal nations to control their education systems. Extending Public Law 477 and 638 across more Federal programs would give tribes greater autonomy over education.

Additionally, 105(l) lease funding should be moved to mandatory appropriations to assure tribes can build, repair and maintain schools independently while ensuring the Federal Government meets its fiduciary responsibilities.

Fourth, early childhood education is a critical foundation for lifelong success. The Alyce Spotted Bear Commission on Native Children has emphasized the urgent need for culturally relevant early childhood programs that address the unique needs of Native communities. The report highlighted the importance of improving access to Head Start and other early education services that are responsive to Native languages, culture, and values.

Congress must prioritize implementing the Commission's recommendations, which are vital for providing Native children with crucial developmental and educational opportunities.

Finally, I want to highlight the urgent need to improve BIE school facilities. Unlike DOE or Department of Defense schools, which receive significant investment, many BIE schools are oper-

ating in unsafe, outdated buildings. To ensure that Native students have safe learning environments, tribal nations must have access to consistent funding for construction and renovation, whether through direct appropriations, the Great American Outdoors Act, or expanded 105(1) lease agreements.

Members of the Committee, the stakes are high. By supporting Native education, you are not only investing in the future of our youth, but also strengthening the resilience and sovereignty of tribal nations, and ultimately, the success of the United States. I urge you to act now to uphold trust and treaty obligations and ensure that Native students receive the education they deserve.

Thank you, and I look forward to your questions.

[The prepared statement of Mr. Bird follows:]

PREPARED STATEMENT OF KERRY D. BIRD, PRESIDENT, NATIONAL INDIAN EDUCATION ASSOCIATION

On behalf of the National Indian Education Association (NIEA), and the students, educators, and Tribal Nations we serve, thank you for this opportunity to provide testimony regarding the critical issues surrounding Native education and the Federal government's trust and treaty obligations to American Indians and Alaska Natives and the Federal trust obligation to Native Hawaiians. Sovereignty is the cornerstone of effective education in Indian Country, and the federal trust responsibility to Indian education is one of the most fundamental commitments the United States government has made. This responsibility, deeply embedded in over 150 years of treaties, statutes, and cases, has been integral to ensuring that Native students receive the support and resources needed for educational success. Education is not merely a tool for individual success it is the foundation for the future of our Nations.

Native students in Bureau of Indian Education (BIE)-funded schools, as well as those in public schools serving Native populations, are subjected to overcrowded classrooms, deteriorating facilities, and that does not respond to the needs of the local communities or cultures. In many instances, Federal policies do not sufficiently recognize or support the inherent sovereignty of Tribal Nations in managing their own educational systems, often leaving Native communities at the mercy of bureaucratic red tape and restrictive federal oversight. This oversight results in a lack of agency for Native peoples over their own educational systems, which should be driven by cultural, linguistic, and community-specific priorities.

NIEA urges this Committee to act on these critical issues. By making meaningful investments in Native education, updating outdated policies, and recognizing the inherent sovereignty of Tribal Nations, we can begin to close the gaps in educational opportunity and outcomes for Native students. This includes prioritizing funding and flexibility for BIE schools and Tribal Education Agencies, protecting the status of Native education programs across the government, and removing administrative barriers that hinder Native communities from fully controlling and shaping their educational systems. The stakes are high, not just for Native students but for the future of our communities and our shared future as a Nation. By supporting Native education, we are not only investing in the future of our youth but in the strength and vitality of Tribal Nations and the United States as a whole.

I. Affirming the Political Status of Native Students

The first step in improving Native education is affirming the political status of Native students. The political status of Native students—whether American Indian, Alaska Native, or Native Hawaiian—is deeply intertwined with their communities' sovereignty and their relationship with the U.S. government. These communities have a unique and complex legal and political standing that must be recognized and respected in the development of federal education policy. Native students face unique challenges, and their education must be designed with their cultural heritage and future economic success in mind. The federal trust responsibilities to American Indians, Alaska Natives, and Native Hawaiians, are an essential part of this relationship, obligating the U.S. government to protect the resources, lands, and rights of Tribal Nations and Native communities, including ensuring access to education.

Congress has long understood this unique duty, reaffirming the political status of Native students through centuries of legislation, beginning with the Civilization

Fund Act of 1819, codified as a Federal directive in the Snyder Act of 1921, and later revised under the Indian Self-Determination and Education Assistance Act of 1975 (ISDEAA), P.L. 93–638, and the Tribally Controlled Schools Act of 1988, P.L. 100–297. Meanwhile, the trust responsibility to individual Native children in public schools has been reinforced in federal law since the Johnson O’Malley (JOM) Act of 1935, followed by P.L. 81–874 (1950), Title VI of the Elementary and Secondary Education Act of 1965, the Indian Education Act of 1972, and the Native Hawaiian Education Act of 1988. Congress must continue to advocate for policies that reaffirm the political status of Native students. This can be achieved by providing greater flexibility and control to Tribal communities in areas such as curriculum development, governance, teacher recruitment, and funding allocation. Tribal Nations should be empowered to make decisions that reflect their values, traditions, and educational priorities. These programs are not simply a matter of cultural pride but also critical to the future economic success of Native communities, as they help to preserve and promote valuable skills and traditions.

II. Ensuring Stable and Adequate Funding for Native Education

A critical element of fulfilling the federal government’s trust responsibility, the Federal government must ensure that funding for Native education is adequate, stable, and protected. The Federal government must commit to long-term, consistent funding that supports Native education programs and ensures that Native students have access to the resources they need to succeed. This includes support for Tribal Education Agencies (TEAs), which play a crucial role in operation of Tribally Controlled Schools, Tribal charter schools, and the development and implementation of education programs for Native students, as well as funding for programs like Head Start, Johnson-O’Malley, and Native language revitalization efforts. TEAs provide invaluable resources that help close educational gaps for Native students, but they cannot operate effectively without adequate funding.

The financial stability of Tribal education programs is a foundational element of ensuring long-term success for Native students. To achieve this, it is critical that Congressional appropriations for Tribal education remain stable and predictable through Advance Appropriations. Advance Appropriations provide guaranteed, consistent funding for federal programs, allowing Tribal governments and educational institutions to plan and implement long-term projects without the uncertainty of fluctuating annual budgets. This stability is particularly crucial in education, where programs rely on predictable funding to address the unique needs of Native students. Without stable, guaranteed funding, Native communities often face interruptions in services, delays in programming, and difficulty in maintaining quality educational standards. Advance Appropriations would protect these programs from the uncertainty of the annual budget cycle and ensure that Tribes can meet the educational needs of their youth without disruption.

In addition, funding for Native education programs should be protected across the entire Federal government. Funds for programs like Title VI, Title I grants, and the Johnson-O’Malley program must be fully funded to address the unique needs of Native students who do not attend BIE schools but still maintain a political relationship with the Federal government. These programs are critical to closing the achievement gap, but their effectiveness is undermined when funding is not consistent and when there are no guarantees that resources will be allocated where they are most needed.

III. Expanding Self-Governance in Education Through P.L. 477 and 638 Authorities

One of the most effective ways to empower Tribal Nations in managing educational programs is to expand self-governance authority through P.L. 477 and 638. These policies allow Tribes to take on greater control and responsibility over federal programs that impact their communities, creating more flexible and culturally relevant solutions for Native students.

Under P.L. 102–477, Tribes have the ability to consolidate multiple federal programs under a single compact or contract, offering a streamlined approach to service delivery. Expanding this authority throughout the Administration for Children and Families (ACF) would allow for better integration of education programs such as Head Start and Native language revitalization efforts under the Administration for Native Americans (ANA). By consolidating funding streams and reducing the administrative burden of navigating multiple federal requirements, Tribes can tailor these programs to meet the specific needs of their communities, fostering greater community involvement and long-term sustainability.

Similarly, fully extending 638 authority to more federal programs—particularly those within the U.S. Department of Agriculture (USDA), like Child Nutrition Serv-

ices—will provide Tribes with the autonomy to design and administer programs that are culturally appropriate and responsive to their community’s unique needs. This would enable Tribes to manage their own nutrition services for students, ensuring that the meals provided are nutritious and reflective of cultural preferences, which directly impacts student health and academic success.

By expanding both P.L. 477 and 638 authority, Tribes can exercise greater sovereignty and self-determination in the administration of education-related programs, leading to more efficient, effective, and culturally relevant services. These efforts will help bridge the gap in educational disparities and support the success of Native students by ensuring that educational programs are aligned with community values and priorities.

IV. Improving BIE Facilities and Resources

The Bureau of Indian Education is a primary mechanism through which the federal government provides education to Native students. Unlike Department of Defense (DOD) schools, which receive significant funding for modern facilities and ongoing renovations, BIE schools are often operating in buildings that are outdated and, in some cases, hazardous for students and staff. In many cases, BIE schools lack basic infrastructure, such as heating and ventilation, and face ongoing challenges with building maintenance and teacher recruitment.

In 2019, a study by the Department of the Interior estimated that addressing the most critical maintenance issues in BIE schools would require more than \$639 million. However, even after this immediate funding is provided, BIE schools would still face a funding shortfall of over \$1 billion to address the full scope of the infrastructure needs. This disparity is an ongoing injustice, as Native students should have access to the same quality of education facilities as their peers in other parts of the country.

Tribal Nations often face significant barriers in securing and maintaining funding for school facility construction, repair, and renovation through traditional funding mechanisms. We urge Congress to consider providing additional funding for the BIE school facilities, including through the reauthorization of the Great American Outdoors Act (GAOA) Legacy Restoration Fund, and streamlining the process for accessing these funds. Investing in facilities is an investment in the future of Native students and their communities.

V. Enhancing Tribal Control Over Education Infrastructure: 105(l) Leases

Making 105(l) leases mandatory appropriations offers Tribes an alternative model for improving school infrastructure. Under Section 105(l) of ISDEAA, Tribes can lease school facilities to the federal government as part of self-governance compacts or contracts. This allows Tribes to build, repair, and maintain schools independently while ensuring the federal government meets its fiduciary duties. The leases are essentially payment agreements between Tribes and the BIA, BIE, or IHS, compensating Tribes based on the “fair market value” of their facilities for use in federal programs. However, because these payments are currently discretionary, they increasingly face the possibility of being offset by cuts to other Tribal programs. To encourage Tribal participation in 105(l) leasing and give Tribes more control over their facilities, these payments should be made mandatory. Doing so would reduce bureaucratic delays, empower Tribes with self-determination over education infrastructure, and address the current backlog in school maintenance.

VI. Tribal Head Start, Early Childhood Education, and the Alyce Spotted Bear Report

Early childhood education is a critical foundation for Native students’ future success, yet Tribal Head Start and other early childhood education programs often face chronic underfunding and barriers to full participation. The Alyce Spotted Bear and Walter Soboleff Commission on Native Children, through its 2019 report, highlighted the urgent need for culturally relevant early childhood education programs that are responsive to the unique needs of Native communities. The report underscored the importance of improving access to Head Start programs and other early education services, ensuring they reflect Native languages, cultures, and values.

To address these needs, Congress must increase funding for Tribal Head Start programs, which provide crucial developmental and educational opportunities for Native children. Additionally, enhancing access to early childhood education by supporting Tribally operated programs and ensuring they meet the specific needs of Native communities will help improve the overall educational outcomes for Native students. Many of these programs were outlined in the final Alyce Spotted Bear Commission Report and should be fully implemented. Federal investment in these programs not only prepares children for academic success but also strengthens the cul-

tural fabric of Native communities by providing children with a connection to their heritage from a young age.

VII. Ensuring Culturally Relevant Education and Teacher Retention

In order to create an education system that is truly responsive to the needs of Native students, it is essential that Tribal Nations have the ability to develop their own curricula and educational assessments. Currently, many BIE schools are required to use standardized assessments that do not take into account the cultural and linguistic backgrounds of Native students. This often leads to unfair evaluations of student achievement and reinforces disparities in academic outcomes. By allowing BIE-funded schools to develop and use their own assessments, we can better support Native students in their educational journey.

Furthermore, it is crucial to invest in teacher retention and professional development programs across all levels of education. The Native American Teacher Retention Initiative (NATRI) has been successful in increasing the number of Native teachers and providing ongoing support to those in the profession. Continued support for NATRI and similar programs will help address the teacher shortages in Native communities and ensure that Native students have educators who understand and respect their cultural backgrounds. Programs such as this should be expanded to include recruitment and retention programs for Early Childhood Education (ECE), where typical teacher shortages are exacerbated even further. These programs should include mentoring, leadership development, and professional growth opportunities to support teachers' long-term success in the classroom.

VIII. The Other 93 Percent: Addressing the Educational Needs of Native Students in Public Schools

While BIE schools serve a significant portion of Native students, the majority—about 93 percent—attend public schools. Title VI of the Elementary and Secondary Education Act (ESEA) is a vital resource for Native students in public schools. Title VI programs play a crucial role in addressing the unique educational needs of Native students. Title VI grants fund vital resources for Native students, including after-school programs, academic support, dropout prevention initiatives, and assistance with college access testing. Equally important is the inclusion of Native Hawaiian Education and Alaska Native Education programs, which aim to address the specific needs of Native Hawaiian and Alaska Native students.

Additionally, Title I grants, which target disadvantaged students, are particularly vital for Native students who often face socioeconomic challenges in schools across the Nation. BIE Schools also receive this funding. There have been many recent conversations regarding the future and the structure of these grants. It is essential that the role these grants play in fulfilling the trust and treaty obligations to Native education are not redirected to the States. Here, TEAs again play an important role and should be eligible to receive the funding directed at their students, similar to State Education Agencies (SEAs) or Local Education Agencies (LEAs).

Maintaining robust funding for these programs is critical, as they provide essential resources and services that public schools might otherwise lack. Programs such as Title VI are essential because they go above and beyond what the BIE and JOM can serve, including descendants of federally recognized tribes, as well as state-recognized tribes, ensuring that more Native students can benefit from these programs and also affirming the Federal government's commitment to meeting the unique needs of Native communities within the broader public education system.

IX. Protecting Impact Aid and Supporting Tribally Controlled Schools

Impact Aid is a federal program designed to support school districts that serve students whose families live on federal lands or who are military dependents. For many Native communities, Impact Aid is a critical funding source that helps bridge the gap between what local districts can raise through taxes and what is required to provide quality educational services. However, the current structure of the program does not adequately account for Tribally controlled schools, which do not have access to traditional tax revenue. Additionally, while Native students living on federal lands are eligible for Impact Aid, Native Hawaiians are not, even though they face similar challenges.

NIEA advocates for expanding the Impact Aid program to include Tribally Controlled Schools, as these schools are in a unique position. They are run by Tribal Nations, which do not have the same access to tax revenue as other school districts. Allowing these schools to benefit from Impact Aid would provide essential funding that could be used to improve educational opportunities for Native students.

Furthermore, while American Indians and Alaska Natives are recognized as federally impacted children, Native Hawaiians, even those living on Hawaiian Homesteads, are excluded from these benefits. This is a significant gap in the system, and

it is essential that Congress take steps to ensure that Native Hawaiians are not excluded from federal educational support.

X. Expanding Educational Opportunities Through Charter Schools and Self-Determination

Charter schools have become a valuable tool for Native communities seeking to regain control over the education of their children. Tribally run charter schools offer Native students a culturally relevant curriculum, focused on language revitalization, cultural identity, and the educational priorities of their communities. Charter schools also allow for innovative approaches to education, such as project-based learning and community partnerships, which are essential for the success of Native students. Allowing Tribal Nations and TEAs to be recognized as authorizers for Native charter schools on their lands or within their communities will help provide an education system that aligns with the values and needs of Native students, while also offering flexibility to adapt to the diverse educational needs across Indian Country.

This is especially so, given the 1995 moratorium on additional BIE schools, and the lack of funding which exists even if the moratorium were to be lifted. For all of the Tribes who do not have BIE schools in their communities, and even for those that do, supporting and expanding access to charter schools for Native students is an important step toward promoting selfdetermination and create additional choice in Native education.

Conclusion

The federal government has a sacred trust responsibility to Native peoples, particularly when it comes to education. By honoring the commitments made to Native students and strengthening sovereignty in education, we can ensure that Native students receive an education that will not only improve economic outcomes but also strengthen the resilience of Native communities for generations to come.

The CHAIRMAN. Thank you, Mr. Bird.
Now we go virtually to Hawaii. Mr. Lewis, welcome.

STATEMENT OF KUHIO LEWIS, CEO, COUNCIL FOR NATIVE HAWAIIAN ADVANCEMENT

Mr. LEWIS. Aloha, mahalo nui loa to Chair Murkowski and to our very own Senator and Vice Chair Schatz, as well as esteemed members of the Committee. I am Kuhio Lewis; I am the Chief Executive Officer of the Council for Native Hawaiian Advancement. I want to extend a deep mahalo to you, Chair Murkowski, for your steadfast support for our Native people across America.

For background, our organization is actually the sister or the mirror to AFN, or the Alaska Federation of Natives. We gather community, we identify priorities to them, and we elevate them. We have 1,600 members as part of our organization's network. We are a HUD-certified counseling agency. We are the largest Native CDFI in Hawaii and we manage large-scale workforce programs, housing projects, financial aid, and we also help manage tourism in our islands. Currently, we are playing a pivotal role in helping Maui recover from the devastating wildfires.

CNHA also operates a policy center, and we help connect people with decision makers.

Just by way of our comments, the Federal Government has a special political and trust relationship with the Native Hawaiian community following the overthrow of our Queen and the annexation of the kingdom, the illegal annexation of our kingdom of Hawaii, and the seizure of our trust lands. These are the same trust principles that Congress has recognized and it owes the Native people of the United States. In lieu of a government-to-government relationship, the Federal Government fulfills this trust obligation to

Native Hawaiians by working with Native Hawaiian organizations like ours and many others out there, as well as the Native Hawaiian community at large.

Compared to other groups in Hawaii, Native Hawaiians face some of the greatest disparities. We have the shortest life expectancy, we are the most likely to live below the poverty line, we experience significantly higher rates of unemployment, we are the most incarcerated. And one unfortunate statistics is, recently there are more Native Hawaiians now living outside of our homeland of Hawaii than in our homeland.

So we are losing more and more. We already lost our monarchy, our lands, our culture, and now we are losing our people. The cost of living, the unaffordable housing prices, the lack of career opportunities, have pushed our Native Hawaiian people out of their homeland.

While great strides have been made, more work needs to be done to support our Native people. The inclusion of Native Hawaiians in programs like the Office of Indian Energy, increased funding to support programs like NAHASDA so we can build housing, ensuring that trust principles are met and Native Hawaiians can stay in their homelands is critical. These funding mechanisms allow us to leverage private funds as well, so that we can further support our people.

In closing, similar to what others have said, NAHASDA funds are critical to our advancement. There have been tremendous happenings in recent years with respect to NAHASDA. So as well as for our Native Hawaiian education funds, it has helped to perpetuate and cultivate the continuation of our Hawaiian language programs, which was something that was lost. And our Native Hawaiian support that we get from Congress is also critical.

So what we are asking for is the continued recognition and support of our Native Hawaiian people in Hawaii. We will do our part to continue to support our people.

Thank you, Chair, thank you Committee members. I am available for questions.

[The prepared statement of Mr. Lewis follows:]

PREPARED STATEMENT OF KUHIO LEWIS, CEO, COUNCIL FOR NATIVE HAWAIIAN
ADVANCEMENT

Mahalo nui loa, Chair Murkowski, Vice Chair Schatz, and esteemed members of the Senate Committee on Indian Affairs for convening this hearing on Native priorities.

Founded in 2001, the Council for Native Hawaiian Advancement (CNHA) is a member-driven, 501(c)(3) nonprofit organization dedicated to advancing the cultural, economic, political, and community development of Native Hawaiians throughout the United States. As a Native Community Development Financial Institution, a HUD-Certified Housing Counseling Agency, and a National Intermediary, CNHA fosters greater opportunities for economic growth and self-sufficiency through three primary divisions: Community Programs, Kāko'o Maui, and Kilohana, a tourism-focused initiative.

CNHA takes pride in advocating for some of the most pressing issues facing the Native Hawaiian Community today, including the rising cost of living, lack of affordable housing, access to economic prosperity, and disaster resiliency in light of the 2023 Maui wildfires. Additionally, we are deeply concerned about these issues contributing to the increasing outmigration of Native Hawaiians from their homeland.

CNHA is honored to provide insight into the needs of the Native Hawaiian Community and our federal trust responsibility. Mōhala i ka wai ka maka o ka pua—

Unfolded by the water are the faces of the flowers.¹ Just as flowers thrive where there is water, so do communities flourish when they have necessary resources and support.

We respectfully urge the Committee to support equitable funding and programmatic opportunities for the Native Hawaiian Community; permanent reauthorization of existing Native Hawaiian legislation; and development of meaningful consultation policies that ensure Native Hawaiian voices are heard in federal decision-making.

Overview of the Native Hawaiian Community

Native Hawaiians are the Indigenous people of the Hawaiian Islands with a unique culture, language, and tradition. Estimates of up to one million Native Hawaiians built a thriving, complex society capable of sustainably supporting itself in one of the most remote locations in the world. Contact with European settlers beginning in 1778 devastated the Native Hawaiian population due to the introduction of illnesses such as measles, smallpox, polio, tuberculosis, and venereal diseases. By 1920, the Native Hawaiian population had dwindled to just under 24,000.² This rapid decline, coupled with a loss of culture, language, land, and political leadership, pushed Native Hawaiians to the lowest socioeconomic levels in their homeland. After generations of revitalization efforts, community resilience, and political advocacy, the Native Hawaiian Community has been slowly recovering from the impacts of these travesties. Yet, there is still much work to be done to overcome past, present, and future struggles.

Compared to other groups, Native Hawaiians face some of the greatest disparities. In Hawai'i, Native Hawaiians have the shortest life expectancy, are the most likely to live below the poverty line, and experience significantly higher rates of unemployment, impoverished conditions, and incarceration.³ Native Hawaiians are the only ethnic group in Hawai'i with consistently more people leaving than entering the islands over the past fifteen years.⁴

Today, there are over 650,000 Native Hawaiians living across the globe. The highest concentration of Native Hawaiians is in Hawai'i, with more than 20 percent of Hawai'i residents identifying as Native Hawaiian.⁵ The 2020 Census identified that, for the first time, a majority of Native Hawaiians live outside of Hawai'i.⁶ As shown in the table below, Nevada, California, Washington State, and Utah all have large concentrations of Native Hawaiians.⁷

Selected Counties with Large Populations of Native Hawaiian Residents

County	Number of Native Hawaiians
Honolulu County, HI	200,455
Hawaii County, HI	59,320
Maui County, HI	39,592
Clark County, NV	23,192
Los Angeles County, CA	15,983
San Diego County, CA	10,965
King County, WA	7,867
Pierce County, WA	6,648
Sacramento County, CA	5,378
Salt Lake County, UT	3,846

¹ Mary Kawena Pukui, 'Olelo No'eau: Hawaiian Proverbs & Poetical Sayings #2178 (1983).

² Sara Kehaulani Goo, "After 200 years, Native Hawaiians Make a Comeback" Pew Research Center. (Apr. 6, 2015), <https://www.pewresearch.org/fact-tank/2015/04/06/native-hawaiian-population/>.

³ Noreen Mokuau et al., *Challenges and Promises of Health Equity for Native Hawaiians* (2016).

⁴ Shawn Malia Kana'iapuni et al., *Ka Huaka'i Native Hawaiian Education Assessment* (2021) https://www.ksbe.edu/ka_huakai/.

⁵ America Counts Staff "Hawaii Added More Than 94,000 People Since 2010" U.S. Census Bureau (Aug. 25, 2021) <https://www.census.gov/library/stories/state-by-state/hawaii-population-change-between-census-decade.html#race-ethnicity>.

⁶ Native Hawaiian Research Hui "New census data confirms more Native Hawaiians reside on the continent than in Hawai'i" Office of Hawaiian Affairs (Sep. 22, 2024) <https://www.oha.org/news/new-census-data-more-native-hawaiians-reside-continent/>.

⁷ Brittany Rico, Joyce Key Hahn, and Paul Jacobs "Chuukese and Papua New Guinean Populations Fastest Growing Pacific Islander Groups in 2020" U.S. Census Bureau (Sep. 21, 2023) <https://www.census.gov/library/stories/2023/09/2020-census-dhc-a-nhpi-population.html>.

Federal Trust Responsibility for the Native Hawaiian Community

Congress has consistently and expressly acknowledged a special political and trust relationship with Native Hawaiians based on our status as the Indigenous, once-sovereign people of Hawai'i. These are the same trust principles that Congress has recognized is owed to all Native peoples of the United States. The federal trust relationship with the Native Hawaiian Community was established through the illegal annexation of the Kingdom of Hawai'i⁸ and reaffirmed by the 1959 Admission Act.⁹ The federal trust responsibility has been included in more than 150 legislative measures, including but not limited to:

- Hawaiian Homelands Homeownership Act (HHHA)¹⁰
- Native Hawaiian Health Care Improvement Act (NHHCIA)¹¹
- Native Hawaiian Education Act (NHEA)¹²
- Native American Graves Protection and Repatriation Act (NAGPRA)¹³
- National Historic Preservation Act (NHPA)¹⁴
- Native American Languages Act (NALA)¹⁵
- Native American Tourism and Improving Visitor Experience (NATIVE) Act¹⁶

Congress determines which Native groups are receive a formal trust responsibility, while the Executive Branch administers the enacted programs and policies to fulfill this obligation. American Indians and Alaska Natives have tribal governments to help the federal government to administer these programs. In lieu of a central Native Hawaiian government, the federal government works with Native Hawaiian Organizations and the Native Hawaiian Community.

Congress has defined the term "Native Hawaiian" in multiple statutes. The Native American Housing Assistance and Self-Determination Act (NAHASDA) defines Native Hawaiian as "any individual who is (A) a citizen of the United States; and (B) a descendant of the aboriginal people, who, prior to 1778, occupied and exercised sovereignty in the area that currently constitutes the State of Hawaii, as evidenced by (i) genealogical records; (ii) verification by kupuna (elders) or kama'āina (long-term community residents); or (iii) birth records of the State of Hawaii."¹⁷

Native Hawaiian Organizations often refers to any organization that serves and represents the interests of the Native Hawaiian Community; has a primary and stated purpose for the provision of service to the NHC; and has expertise in Native Hawaiian affairs. Native Hawaiian Community often refers to the distinct Native Hawaiian indigenous political community that Congress has recognized and for which Congress has implemented a special political and trust relationship. Importantly, none of these definitions have a geographic restriction to the State of

⁸ Joint Resolution to Provide for Annexing the Hawaiian Islands to the United States, H.R.J. Res. 55-51, 55th Cong., 30 Stat. 750 (1898).

⁹ Admission Act of 1959, Pub. L. No. 86-3, 73 Stat. 4.

¹⁰ Codified as Title VIII of the Native American Housing and Self-Determination Act (NAHASDA) (25 U.S.C. 4221 et seq.) (2000). Finds that "the United States has a special responsibility for the welfare of the Native peoples of the United States, including Native Hawaiians" and "under the treaty-making power of the United States, Congress had the constitutional authority to confirm a treaty between the United States and the government that represented the Hawaiian people, and from 1826 until 1893, the United States recognized the independence of the Kingdom of Hawaii, extended full diplomatic recognition to the Hawaiian Government, and entered into treaties and conventions with the Hawaiian monarchs to govern commerce and navigation in 1826, 1842, 1849, 1875, and 1887."

¹¹ Native Hawaiian Health Care Improvement Act (42 U.S.C. 11701 et seq.) (1988). Establishes a program to maintain and improve Native Hawaiian health "[i]n furtherance of the trust responsibility for the betterment of the conditions of Native Hawaiians" and acknowledges that "[t]his historical and unique legal relationship has been consistently recognized and affirmed by the Congress through the enactment of Federal laws which extend to the Hawaiian people the same rights and privileges accorded to American Indian, Alaska Native, Eskimo, and Aleut communities."

¹² Native Hawaiian Education Act (20 U.S.C. 7511-7517) (1988). Recognizes that "Congress does not extend services to Native Hawaiians because of their race, but because of their unique status as the indigenous people of a once sovereign nation as to whom the United States has established a trust relationship" and "the political status of Native Hawaiians is comparable to that of American Indians and Alaska Natives."

¹³ Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.).

¹⁴ National Historic Preservation Act (16 U.S.C. 470 et seq.).

¹⁵ Native American Languages Act (25 U.S.C. 2901 et seq.).

¹⁶ Native American Tourism and Improving Visitor Experience (NATIVE) Act (25 U.S.C. 4351 et seq.).

¹⁷ 25 U.S.C. § 4221(9)

Hawai'i. Federal policies must take into account that the Native Hawaiian Community exists throughout the country and Native Hawaiians live in every state.

Federal Priorities that Advance the Cultural, Economic, and Political Well-Being of the Native Hawaiian Community

Consistent with the special and political trust relationship, the federal government owes a duty of care to the Native Hawaiian Community. As detailed below, the Council for Native Hawaiian Advancement respectfully urges the Committee to support equitable funding and programmatic opportunities for the Native Hawaiian Community; permanent reauthorization of existing Native Hawaiian legislation; and development of meaningful consultation policies that ensure Native Hawaiian voices are heard in federal decisionmaking.

Equitable Funding and Programmatic Opportunities for the Native Hawaiian Community

Congress has authorized a patchwork of programs to deliver and coordinate services to Native Hawaiian communities. However, our experience is that when Native Hawaiians are not specifically identified and funding is not set aside, the needs of our communities are more likely to be overlooked or excluded. We urge this Committee to strengthen and expand legislation to achieve parity with other Native American groups and further support the advancement of cultural, economic, and political well-being of Native Hawaiians. Native Hawaiian-serving organizations should be empowered and utilized as an effective service-delivery system to the extent possible. If certain funding must ultimately pass through State and County agencies, the trust responsibility to Native Hawaiians should be specifically identified and acknowledged.

One example of existing equitable funding is the Native American Languages Act (NALA). Language revitalization is a cornerstone to cultural perpetuation for Indigenous communities. NALA established federal policy in support of the survival of, and use as the medium of education, all Native American languages including 'Ōlelo Hawai'i. Through Hawaiian language funding, programs like 'Aha Pūnana Leo have been able to successfully provide immersion programs growing the next generation of fluent 'Ōlelo Hawai'i speakers. We urge this Committee to increase funding for Native languages and enable Native American language medium pathways in all federally supported educational programs.

One opportunity for increased funding equity is programs that affect the economic well-being of Native Hawaiians. There are several economic development and access to capital programs that serve Native Hawaiians, including the Department of the Treasury, Native American Community Development Financial Institutions, Minority Depository Institutions, and the Native Hawaiian Revolving Loan Fund. The Native Hawaiian Community has also benefitted from the Treasury's Emergency Rental Assistance, Homeowner Assistance Fund, Capital Projects Fund and Small Business Credit Initiative, Emergency Capital Investment Program, Rapid Response Program, and Native American CDFI Assistance Program. We urge this Committee to support expanded funding for these critical initiatives integral to improving economic opportunities for Native Hawaiians.

Another opportunity for greater programmatic equity is the inclusion of Native Hawaiians in existing protections for Indigenous women and girls. Native Hawaiian women and girls experience violence at disproportionate rates.¹⁸ Hawai'i has the eighth highest rate of missing persons per capita, with the reported cases of missing children being 77 percent female and 84 percent Native Hawaiian.¹⁹ However, Native Hawaiians have largely been left out of the federal policy discourse and resource allocation to address violence against Indigenous communities. 2022 was the first year Native Hawaiians were formally recognized by a U.S. President as belonging to Indigenous populations disproportionately impacted by interpersonal and systemic violence that leads to Native women and girls going missing and being murdered. We urge the Committee to include Native Hawaiians in federal policy initiatives, funding, and legislation aimed at responding to the crisis of missing and murdered Indigenous women and girls and violence against women.

Finally, it is critical that Native Hawaiians are included in data disaggregation efforts throughout all federal government initiatives. Native Hawaiians are often grouped alongside Asian Americans and Other Pacific Islanders in a way that obfuscates relevant Native Hawaiian statistics. This is also true when a catch-all multiracial category is used, as Native Hawaiians are more likely than other groups to

¹⁸ Missing and Murdered Native Hawaiian Women and Girls Task Force Report. https://www.oha.org/wp-content/uploads/MMNHWG-Report_Web.pdf.

¹⁹ *Id.*

identify with an additional race or ethnicity group.²⁰ We urge this Committee to promote data disaggregation efforts across federal race and ethnicity standards.

Permanent Authorization of Existing Native Hawaiian Legislation

In addition to the inclusion on Native Hawaiians in larger bills, Congress has also utilized programs specific to the Native Hawaiian Community through federally funded Native Hawaiian-serving organizations, such as the Office of Hawaiian Affairs, the Department of Hawaiian Home Lands,

Papa Ola Lōkahi, the Native Hawaiian Health Care Systems, and the Native Hawaiian Education Council to deliver and coordinate services to Native Hawaiian communities. Over the past several decades, the HHA, the NHHCIA, and the NHEA has provided resources to the Native Hawaiian community through a variety of programs and services. We urge this Committee to permanently reauthorize all of these Acts.

Firstly, the Department of Hawaiian Home Lands (DHHL) is a state agency created by federal statute with the mission to develop and deliver land and housing to Native Hawaiians. In 2000, Congress enacted the Hawaiian Homelands Homeownership Act (HHHA) in 2000, establishing the Native Hawaiian Housing Block Grant program and the Section 184A Loan Guarantees for Native Hawaiian Housing through NAHASDA. These programs deliver funds for new construction, rehabilitation, infrastructure, and various support services. DHHL has also been able to use these funds for emergency rental assistance for eligible Native Hawaiians; rental subsidies for lower-income elderly, rehabilitation of homes primarily for elderly or disabled residents; homeownership opportunities for lower-income working families; and homeownership and rental counseling to address barriers experienced by Native Hawaiians.

These is a growing housing crisis in Hawai'i. The average price for a single-family home in Hawai'i is \$843,185.²¹ In 2022, home buyers needed to earn nearly 180 percent of the state's median income (or \$150,000 per year) to afford the median home.²² Of the 28,155 Native Hawaiians in rental united in Hawai'i, 54.9 percent of them are cost-burdened and paying more than 30 percent of their income to rent. On O'ahu, 42 percent of individuals included in the annual Point-in-Time count of unsheltered homeless were Native Hawaiians.

The housing crisis is also true for many DHHL beneficiaries. According to DHHL's recently completed 2020 Beneficiary Study, 56.8 percent of the nearly 10,000 lessees or beneficiary families who received homestead awards are currently below the 80 percent HUD AMI. Of applicants or beneficiary families waiting to receive a homestead award, 51 percent of the over 28,000 applicants are below the 80 percent HUD AMI, an increase from 45 percent in 2014. In addition, about 16 percent of applicants below the HUD's 80 percent of Area Median Income (AMI). reported that they receive Section 8 and 7 percent reported that they received rental assistance. The impacts of the pandemic are expected to further exacerbate these needs. We urge this Committee to support permanent authorization, increased funding for, and expansion of the NHHBG and 184A Loan Guarantee programs.

Secondly, similar to our Indigenous relatives on the continent, these are significant health disparities amount Native Hawaiian populations. In response to these disparities, Congress enacted the Native Hawaiian Health Care Improvement Act (NHHCIA) in 1988. The NHHCIA established the Native Hawaiian Health Care program, which funds the Native Hawaiian Health Care Systems administered by Papa Ola Lōkahi. The Systems provide primary health care, behavioral health, and dental services on Kaua'i, O'ahu, Maui, Moloka'i, and Hawai'i, as well as health education, health-related transportation, and other services. The NHHCIA also established the Native Hawaiian Health Scholarship Program, which has awarded more than 300 scholarships to Native Hawaiians pursuing careers in designated health care professions, supported culturally appropriate training, placed scholars in underserved Native Hawaiian communities.

There is also an urgent need for several amendments to the NHHCIA. This includes:

- Removing the matching requirements applied to the Systems for parity with other Native health care providers;

²⁰ Joshua Quint et al., "The Hawai'i NPHI Data Disaggregation Imperative: Preventing Data Genocide Through Statewide Race and Ethnicity Standards" *Hawaii Journal of Health & Social Welfare* (Oct. 2023). <https://pubmed.ncbi.nlm.nih.gov/37901675/>.

²¹ Hawaii Housing Market, Zillow. <https://www.zillow.com/home-values/18/hi/>.

²² Stewart Yerton, "It's Actually More Expensive To Buy A Home In Hawaii These Days Than You Thought" *Honolulu Civil Beat* (June 28, 2023) <https://www.civilbeat.org/2023/06/its-actually-more-expensive-to-buy-a-home-in-hawaii-these-days-than-you-thought/>.

- Making the NHHCSs eligible for 100 percent of the Federal Medical Assistance Percentage (FMAP) as well as the Prospective Payment System (PPS) reimbursement rate;
- Expanding Federal Tort Claims Act to Papa Ola Lokahi, the Systems, and their employees in parity with other Native health care providers;
- Allowing federal program funding to be used to collect and analyze health and program data which currently falls under the ten percent administrative cost cap for the program;
- Allowing the Systems to be a specific eligibility group for supplemental federal funding streams; and
- Providing a tax exemption for the Native Hawaiian Health Scholarship Program.

We urge the Committee to support permanent reauthorization of, increased funding to, and technical amendments to the NHHCIA to address avoidable inequalities and health care disparities.

Finally, the Native Hawaiian Education Act has been monumental in providing resources to a collective of educational organizations supporting the unique needs of Native Hawaiian students. The program has helped address gaps in funding that state and private sources have historically been unable to adequately meet. A 2021 profile analysis of NHEP grantees from 2010 through 2018 cohorts reported data from grantee programs and services to Native Hawaiian communities are student, parent, and teacher focused. In 2017 and 2018, NHEP grants served 98,996 participants (including 77,808 students, 18,429 parents, and 2,759 teachers). 100 percent of grantee programs have been targeting Native Hawaiians and 42 percent target low-income populations. NHEA-funded programs have been agile and innovative to provide a continuum of services for students and their families despite receiving little to no supplemental funding from the Coronavirus Aid, Relief, and Economic Security Act via the State.

There is also an urgent need for several amendments to the NHEA. This includes:

- Clarification that the 5 percent limitation in section 6205(b) of the Elementary and Secondary Education Act on the use of funds for administrative purposes shall apply only to direct administrative costs.
- Authorization to use NHEA funds for construction, renovation, and modernization of any public elementary school, secondary school, or structure related to a public elementary school or secondary school that serves a predominantly Native Hawaiian student body.
- Priority funding recommendations to enable the U.S. Department of Education to provide grant funding aligned with the needs and priorities for improving educational outcomes for Native Hawaiians by: (a.) determining funding priorities for each grant competition based on the data-driven priority recommendations submitted to the Department by the Native Hawaiian Education Council through its annual report; (b.) identifying educational needs that remain unmet through a transparent, evidence-based process; and c. developing a peer review process for each grant competition, including identifying reviewer criteria and culturally-appropriate training, and developing an application scoring rubric. Fulfillment of these requests would enable Native Hawaiian Education Program (NHEP) recipients to further bolster Native Hawaiian education.

We urge the Committee to support permanent reauthorization of, increased funding to, and technical amendments to the NHEA.

Development of Meaningful Consultation Policies

Executive Order 13175 outlines the underlying principles for formulating or implementing policies with implications for a native community.²³ In application to the Native Hawaiian Community, this policy recognizes that the United States (1) respects and furthers its special political and trust relationship with the Native Hawaiian Community; (2) must continue to work with the Native Hawaiian Community on a government-to-sovereign basis to address concerns related to self-governance, Native Hawaiian trust resources, and other Native Hawaiian rights; and (3)

²³ Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, Nov. 6, 2000.

recognizes the right of the Native Hawaiian Community to self-government and supports Native Hawaiian sovereignty and self-determination.²⁴

Although the Native Hawaiian Community has not yet reorganized a central government, Congress' thoughtful inclusion of Native Hawaiians in legislation like NAGPRA and NHPA demonstrates that Native Hawaiians can be effectively included in the consultation process. However, Native Hawaiians are still largely omitted from consultation policies and processes across many federal agencies. While it is important for all agencies to develop consultation policies, we want to highlight the importance of meaningful dialogue with the Department of Defense.

The U.S. military is a prominent part of Hawaiian history and daily life. Approximately 46,500 acres of land across the State of Hawai'i is being used by the U.S. military, including Army, Navy, and Air Force bases and installations, with the largest being the 23,000 acres of Pōhakuloa Training Area on Hawai'i Island. Numerous events have made the Native Hawaiian Community dubious of the U.S. military's role as caretakers and stewards of the land they occupy. In recent memory, the 2004 Kaho'olawe UXO Clearance Project left 25 percent of the island with unexploded ordnances and unescorted access to these areas remains unsafe; the U.S. Navy Red Hill Bulk Fuel Tanks stored up to 250 million gallons of fuel and documented multiple leaks in O'ahu's major aquifer; and U.S. Space Force announced an estimated 700 gallons of diesel fuel spilled at the summit of Haleakala. Multiple military land leases will be expiring this decade, providing the opportunity to renegotiate and improve the relationship between the Native Hawaiian Community and the U.S. Military. Given the significant historical and ongoing presence of military operations and activities in Hawai'i, we urge this Committee to support meaningful consultation between the Native Hawaiian Community and the U.S. military for any proposed undertakings that would impact the land or the people. This includes but is not limited to further study and remediation, oversight authority to ensure accountability and consultation, and increased funding to support clean-up efforts.

Finally, we would like to emphasize the importance of broad inclusion for the Native Hawaiian Community. Native Hawaiian migration to the continental United States has been happening for over two hundred years. Some Native Hawaiians were documented in the Pacific Northwest as early as 1787.²⁵ Another group of Native Hawaiians settled in a community near Salt Lake City in the 1880s called Iosepa.²⁶ The federal trust responsibility extends throughout the country. Given the increasing Native Hawaiian population throughout the United States, it is important that neither consultation policies nor definitions of Native Hawaiian Community are geographically bound to Hawai'i. We urge the Committee to support consultation policies inclusive of all Native Hawaiians.

The Council for Native Hawaiian Advancement appreciates the opportunity to present priorities for the Native Hawaiian Community for the 119th Congress to the Senate Committee on Indian Affairs. We look forward to working with the Committee and its members during this session to advance the interests of the Native peoples in accordance with the federal trust responsibility.

The CHAIRMAN. Mahalo, Mr. Lewis, thank you. And thank you all for your comments this afternoon.

We will now turn to questions from the respective members of the Committee. You have all reminded us of the trust responsibility that the Federal Government owes to our Native peoples. Regardless of where you live, that trust responsibility is something that we hold. And it is with regard to economic opportunity, education, health care, housing, as we have heard here today.

So when we think about the priorities going into this new Congress and areas that we can focus, I think you have given us a lot to consider.

²⁴"Requirement to Consult with the Native Hawaiian Community" U.S. Department of the Interior Office of Native Hawaiian Relations, <https://www.doi.gov/hawaiian/requirement-consult-native-hawaiian-community>.

²⁵Jean Barman and Bruce McIntyre Watson, *Leaving Paradise: Indigenous Hawaiians in the Pacific Northwest, 1787–1898* (December 2021).

²⁶Benjamin C. Pykles, "Iosepa: Utah's Pacific Islander Pioneers" Utah Historical Society. <https://history.utah.gov/iosepa-utahs-pacific-islander-pioneers/>.

I want to start my questions here this afternoon directed to you, Chief Bill, on the health aspects of this responsibility. You have mentioned in your comments the alarmingly high maternal mortality rates that we see for indigenous women. I find the statistics just really shocking. Pregnancy-related deaths at a rate more than three times that of white women, American Indian and Alaska Native infants born prematurely, underweight, twice as likely to die before the age of one.

We know that some of these statistics are related to access to health care and to socio-economic challenges. But you suggested in your comments that there are some recommendations that have been outlined in a couple of different reports, one of which is the Native Children's Commission. This Committee is going to be working to build that out.

Can you expand a little bit more on any specific recommendations that you would like to see the Committee address when it comes to maternal mortality and infant health?

Mr. SMITH. Thank you for the question. I have five of them here, it says protect tribal sovereignty and self-determination, emphasize the importance of tribal nation's right to self-govern as a function of our health equity. We know how to take care of our own. We proved that in Alaska with COVID, we took care of the whole village instead of just taking care of specific people.

Invest in equity resources and funding, advocate for significant investment in tribal communities to improve outcomes for the children and prenatal to age three. The other part of that program was address trauma and strengthen connections to culture. Focus on the healing from trauma and building resiliency through culture connections.

As you know, there is all kinds of trauma starting with the boarding schools and even in isolated areas, our lower villages over there. It is far away from all kinds of supermarkets, playgrounds, and everything else that is needed to make sure that the kids can have a place to grow up after they do turn three.

So, enhance access to quality health services, ensure that Alaska Native and American Indian families have access to competent, high quality health services. I put this to, when I was born in Alaska and went to the Indian Health Service's hospital on Fourth Avenue, Fourth and Third, I was scared to death to go there.

This new hospital we have in Anchorage, the Medical Center, welcomes you and everything else. But it was like a death sentence to go into that other one, and for the dental work, as you were growing up as a kid. So I can just imagine, I never recognized the one through three, because I don't remember that part. But Mom does.

[Laughter.]

Mr. SMITH. Support also an intergenerational approach, promote policies and consider the [indiscernible] and intergenerational needs from Alaska Natives and American Indians.

All these recommendations aim to create a path forward toward a healthy outcome for American Indians and Alaska Native infants, the toddlers, and for their mothers.

The CHAIRMAN. I think what we want to do here on the Committee is look at the various reports that are out there. It is one

thing to task a commission and have them put together a great report. It is another thing to actually have us implement on that. I think we want to do that.

I want to direct a couple of questions to you, Mr. Butler, with NAFOA. I appreciate that you have given us some concrete suggestions here to look at from the financing perspective, New Market Tax Credits, tribal low income tax credits, focusing on the Indian Loan Guarantee Program, some real specifics here.

You have also mentioned priority of making Treasury's Office of Tribal and Native Affairs permanent and continuing the Tribal Treasury Advisory Committee. That is good to hear, because oftentimes, we don't hear good reports coming out of some of these tribal liaisons that we have established within agencies. What you are telling me is that this is one where we are seeing good outcomes and it is working and it needs to be continued. Is that a fair summation?

Mr. BUTLER. Absolutely. Absolutely, Chair. And selfishly, one of the many hats I wear is actually as a member of the Treasury Tribal Advisory Committee as well. So I saw first-hand in a very short period of time how the impact of having tribal leaders engaging directly with leadership in a specific department, in this case Treasury, leads to great results.

The rulings that were put out on GWE and all these wholly tribally chartered corporations is monumental. For the tribally chartered corporations, that ruling was 30 years in the making. Having the Office of Native Affairs there as well as the TTAC there allowed us to progress that, and constantly be in the ear of Treasury and IRS, working hand in hand collaboratively to solve those issues that tribes have been waiting on for decades, quite frankly.

So it is a great example of success in the Department of Treasury, and one that should be replicated in other departments as well.

The CHAIRMAN. Good. I appreciate that.

Let's go to the Vice Chair.

Senator SCHATZ. Thank you, Chair, thank all of you for your testimony.

Mr. Lewis, thank you for your work. Can you help me to understand, help the Committee to understand what are the barriers to success? Any needed changes or improved flexibilities that could help the Council for Native Hawaiian Advancement to access more Federal dollars?

Mr. LEWIS. Aloha, Senator, and thanks for the question.

I think the immediate challenge is the uncertainty that currently exists. We have active grants and awards from the Federal Government, some which we can't even draw down on. And what that does is it creates a lot of instability in our organization, not knowing the future of some of the programs that are actively implementing.

So that is a current challenge for us, there is a lot of uncertainty. Also our ability to plan going forward and how we can address some of the long-term needs of our people that we have been working toward for a while. I would say we of course are looking at how we can diversify ourselves. But the Federal Government has been an important part in how we develop programs and work collaboratively with the government to support the needs of our people.

Senator SCHATZ. Thank you.

Just one thought for everybody watching. I understand the principle here that when you are dealing with Native peoples you are dealing in treaty and trust and statutory responsibilities, and that you are not dealing with particular ethnic groups. So this sort of dragnet of calling everything DEI should not apply. I get that. I agree with that.

But we need a little solidarity too, all of us together, to say that if what someone is talking about when they say DEI is the consultant coming in and showing a PowerPoint and dividing up the workplace by race and developing quotas and refereeing the kinds of words that people are trying to use, that is one thing.

But understand that when they say DEI, they are rolling back basic protections for women, for Native people, for Black people, for Asians, for Latinos, for immigrants. So when they go, when these kids, frankly, go into agencies and literally CTRL-F to find words like "gender" or "climate" or "equity" or "inclusion," they are sweeping up recruitment for the Navy, they are sweeping up recruitment for FBI officers. They are disallowing NIH research into pregnant women.

So I understand the need, if you are in charge of an organization, if you represent a tribal community, the need to just survive this moment. But we need to understand, what is happening right now is unlawful. And it is not our job in a democracy to petition the king for mercy. It is our job in a democracy to stand up and say, this is impermissible under the law, not, I know this is impermissible, but would you please make an exception for me? That was not a question.

[Applause.]

Senator SCHATZ. Mr. Bird, tell me about the impact that the executive order on school choice for BIE and tribally controlled BIE schools is impacting the work that you do and the organization that you oversee?

Mr. BIRD. Sure. School choice, tribal nations believe in school choice and local control of their schools. However, tribally controlled schools are our choice, and we feel that school students learn best when the tribe has control of those schools, and are determining what is being taught. Our curriculum includes tribal values from the community. They include curriculum that is related to that particular tribe as well as Natives in other tribal communities.

We are concerned about the possibility that a school choice model that relates to schools being under BIA control, that would take away funding from BIE controlled schools. So any school choice model for Native students must be made with tribal nations at the table helping to assist in making those determinations.

I know looking at my father's tribe, the Sisseton Wahpeton Oyate, they have a tribally controlled school, Tiospa Zina. It is located in an area very close to the heart of the tribe, it is close to senior centers, close to tribal administration, close to the pow-wow grounds. So it has all those components that make it more of a success, because it is so centered in that community, and it has the parents' involvement, it has the seniors' involvement, it has language providers in that school.

So the curriculum is very much focused on the needs of the students in that school system. They wouldn't have that same opportunity at the public high school in Sisseton, where there are no or very limited Indian teachers in that community, in that school system. It wouldn't have the same types of encouragement or pride as being an Indian student in that community.

So the school choice being a tribally controlled school is so important because of what it brings to the student and to the tribal member and the involvement of those within the community.

Senator SCHATZ. Thank you.

The CHAIRMAN. Senator Smith?

Senator SMITH. Thank you so much, Chair Murkowski, and thanks to all of you for being here.

I want to just say that Vice Chair Schatz, I appreciate your comments. I am thinking about how earlier today I was addressing an issue with the Catholic University in Minneapolis that had a grant to train special education teachers frozen, because it was all caught up in this DEI nonsense.

So that is going to hurt the ability of my State to respond to the deep shortage of special education teachers. It is going to hurt kids, it is going to hurt Black kids, it is going to hurt Brown kids, it is going to hurt White kids. It hurts everybody. So I appreciate your comments.

I want to touch on first something that I know is really important and certainly in the tribal nations in Minnesota and I believe around the Country, which is the impact of this devastating opioid and fentanyl crisis. Certainly, it is an issue all over the Country.

But I think it has a particularly devastating impact on many tribal nations, because of the ways in which tribal members are targeted for these crimes. I see this as both a public health crisis and also as a public safety crisis.

President Macarro, I am going to ask you first about this. Last year, Senator Daines and I partnered to introduce a bill called the PROTECT Act, which would basically expand the special tribal criminal jurisdiction which has been so successful with issues around trafficking, expand that special criminal jurisdiction to include drug crimes and gun crimes that are committed as part of drug crimes. This would get at the challenge that so many tribes have in addressing when non-Native people come onto tribal land and commit drug and gun crimes.

President Macarro, would you talk about this a bit and give me your perspective on whether something like this would address some of those jurisdictional challenges you were talking about in your testimony?

Mr. MACARRO. Thank you for the question. I appreciate the softball. Yes, it is something, tribes need jurisdiction back. The ability to not only arrest, detain, but to prosecute those who commit crimes on our reservation lands and our reservation communities is going to be important going forward, to be able not only to stem the flow of drugs but to create safe communities. The status quo right now is really unacceptable is a circumstance where drug dealers, they know what the laws are, they know they can't be prosecuted, they know they will get away with the crime.

Senator SMITH. It creates a revolving door.

Mr. MACARRO. It is a revolving door. There is a circumstance where, if they will come on, maybe the tribe is lucky enough to have a police force that they will get arrested and they might even be detained for 72 hours. But then they have to be released at 72 hours and one minute. They take them to the county line and if the tribal police are lucky, there will be county police or county sheriffs to accept the criminals, but maybe not, and they just go away and come back within hours sometimes, sometimes within a day, and do it all over again. And it doesn't end.

It is a scourge. The solution is ultimately the full fix for Oliphant. But I know we are taking baby steps, incremental steps toward that, getting to that goal. But the sooner we get there, I think the better things will be in the long term.

Let me add this, though. If you were to wave a wand right now and Congress would, in a bipartisan fashion, create that kind of a jurisdictional fix, the condition of not having enough funding, creating a fix without the funding is also not going to help.

Senator SMITH. Right.

Mr. MACARRO. So both parts need to happen.

Senator SMITH. I appreciate that. I think that is a really great point. It is a tool that if you don't have the funding to use the tool, then the tool is not going to be that valuable.

As I said, and I think all of us do see, this is both a public health crisis as well as a public safety crisis. So Chair Smith, I want to ask you, in your testimony, you talked about the Special Diabetes Program as a model for bringing both funding and autonomy to tribes so that tribal knowledge and medicine and healing can be brought together to solve issues around diabetes. The same model, I believe, could also be used really effectively to address behavioral health issues.

I am wondering if you could comment on that. I am really grateful to NIHB for your assistance in moving my Native Behavioral Health Access Improvement Act, that is a mouthful, but what it would do is take that learning from the Special Diabetes Program and apply it to behavioral health.

Mr. SMITH. Thank you for that question. My answer would be to you, education of our health workers so we can help the person that is stuck on these drugs to get them off and get them in a safe place. But that is not going to solve it until they do get tougher on the crimes and put the perpetrators away. You might not like this, but I think they should take their own medicine.

I know when I was growing up in Alaska, in the old days, we had what you called blue chip. When you wanted to blue chip somebody that was being not correct in your community, you sent them to Seattle, which means you put them back on the boat. And that just puts the problems in Seattle.

The problem is the courts just let them get away with it. We need to stop that.

But on the health part of that, and that is the part that the National Indian Health Board can help with, with education and how to recover from a fentanyl overdose. Because a lot of them don't. Once the brain gets scrambled, sometimes you just can't unscramble it. Preventive maintenance, education, everything else is what the health part of it is.

The other part of it is like working with the National Congress of American Indians where we can stress to be tougher on the criminals, quit giving them the revolving door, quit letting them in and out, and knowing that they can get away with it. Even in my State of Alaska, they are really happy they found a bunch of fentanyl coming into Alaska. How much didn't they find? How much came in that they didn't? Because it is coming in every which way. We just need to figure out how to stop it, enforcement.

The education part is trying to educate the young ones to just stay away and the ones that are hooked how to get off. One thing is teaching grandmas and grandpas and parents how to save that person with Narcan or whatever it takes.

Senator SMITH. Thank you. I know I am way over time. Thank you very much, Chair Murkowski. Thank you so much to all of you for your testimony.

The CHAIRMAN. Thank you, Senator Smith.

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

Senator CORTEZ MASTO. Thank you, Madam Chair. And thank you all for being here and for the continued work on all of these issues that we are constantly trying to address here. It almost feels like Groundhog Day, because we are back saying the same things.

But let me just say this. Because of, and I hope you take this away, because of your work and advocacy, there is legislation and there is bipartisan legislation. This is going to be a priority for us in this Congress to get it passed, as you all know. And we are going to continue to need your advocacy.

So I appreciate your being here, because there are many of us working together to get it done.

And let me start with this, the BADGES Act. My colleague, Senator Hoeven, and I have reintroduced that again. It is so important for the very reasons, President Macarro, and everyone else that I am hearing from about the law enforcement piece and the underfunding of law enforcement in Indian Country.

I also know that for our BIA officers in Indian Country, it is hard to not only recruit them but retain them. As part of the challenge that we have in the BADGES Act, we will work to address that. So it is good to see you again, President Macarro, and thank you for your work on the BADGES Act.

I do want to touch on one thing, because we always talk about BIA officers, we talk about law enforcement. We forget tribal courts. Tribal courts are just as important. And there are challenges in our tribal courts right now. Let me just give you an example, and this is what I hear in my State.

Tribal courts and communities are often denied access to funding and law enforcement tools that their non-tribal counterparts regularly use. For example, I have introduced the Tribal Access to Electronic Evidence Act. This would give our tribal courts the same access as their non-tribal counterparts to electronic evidence for criminal investigations.

It sounds so simple, but it is important for us to make sure that our tribal courts have access to all the information that our non-

tribal courts do if we are going to hold these predators and people in our communities accountable.

So President Macarro, let me ask you this. Can you talk a little bit about the importance of tribal courts in Indian Country? But also as you talk about it, can you address the lack of resources for tribal courts and the impact on public safety that provides if we don't have resources for tribal courts?

Mr. MACARRO. I wish we had enough time to go into depth on that question. Can you focus it just a bit? It is broad-ranging.

Senator CORTEZ MASTO. Let me ask you this. Because at the end of the day, for our tribal courts, there are a lot of challenges there. But if we were to forget the jurisdictional issues, because we need a challenge, we need to address those jurisdictional issues, but if we were to give tribal courts access to the same information, electronic information, access to maybe national Federal data bases that non-tribal courts have, how would that improve public safety?

Mr. MACARRO. It would improve it tremendously. There isn't necessarily a problem or an issue with tribal courts having capacity or competence or things like that. We know that from the daily work that tribal courts do throughout Indian Country.

There are problems, I think, with outside courts and entities having, I think the term is comity, accepting as valid the work that tribal courts do. That attitude, I know, is still there. I know it is still there in Indian child welfare work and also other subject matter arenas.

It feels like that would be helpful in moving the ball considerably. In the way that, with law enforcement, having access to data bases, for tribal law enforcement agencies to have access to NCIC for officers in the field and other data bases like that, so that the quality of the work going on, for the people doing the actual work, meets those standards, and there is no question about it.

Senator CORTEZ MASTO. I appreciate that. Let me just highlight this, because this is just one piece of it, right? You are always having to come to us to try and figure out even what crimes tribal courts can go after and hold people accountable for. This is crazy in the sense that if we are going to recognize that sovereignty and give tribal courts the authority that they need to go after and hold individuals accountable, we shouldn't hamstring them. It is not just a lack of resources; it is actually some areas where you need access to information that you are not getting that other courts are getting that are non-tribal.

Mr. MACARRO. Absolutely. Can I just add one more element to this? One of the reasons why I said this goes a lot deeper, I think there is a missing infrastructure piece to the question you are asking. The infrastructure that is needed within the Department of Justice, there is no bona fide tribal desk, there is no place of a clearinghouse of all tribal issues and there should be and there needs to be.

This is not to discount the tremendous work that those who are doing Native American work in the Department of Justice are doing. But there aren't enough, for instance, there aren't enough attorneys to handle tribal work within the Department of Justice. So I think there needs to be ultimately some restructuring so there can be a focus on this. Then all things tribal, all things Indian

Country could flow through that desk. For a long time, it just has seemed to be more ad hoc than truly structural and grounded. In all things, tribal sovereignty.

Senator CORTEZ MASTO. Thank you. I know I am over my time.

I want to thank you all again for your comments. President Butler, thank you for highlighting the Tax Parity Act, the importance of it. That act and that legislation, again, was driven by all of you. What I was hearing, what we were hearing, the chairwoman is working with me on that as well. She understands the issues that are important. I think this is another opportunity for us to move the ball forward here and get something done.

Thank you again for all of your advocacy.

The CHAIRMAN. Thank you, Senator Cortez Masto.

A lot of good discussion here about everything from housing to how we can move out on economic development. Obviously, education, health care, drugs, public safety, all very key.

When we think about tribal self-determination and what that really means, there are so many opportunities for us, particularly within 638, with compacting. There is a big efficiency effort going on by some folks outside this building, you may have noticed it. I can't think of a greater demonstration of empowerment of our tribes, of the people on the ground, than how we are able to build things out or facilitate efforts through compacting; 638 holds such promise for us.

We have a measure that I have talked a lot about when it comes to forest management. When you think about those who are closest to the land, those who we have a real appreciation of understanding when you have low rains and low snow pack, you are going to have a greater propensity for fire.

How do we handle this, how do we address it? Those who are literally on the ground who are the stewards of these areas know better than anyone else. So how can we really work to do more in this area is something that I am going to challenge us as a Committee to work on.

Mr. Bird, I know that USDA soliciting feedback from tribes right now regarding the child nutrition programs, the tribal pilot projects. I understand that there either was or is a listening session later today at the NIEA conference to allow tribe and tribal organizations to administer nutrition programs, whether it is the school lunch program, the school breakfast program, summer food services, the child and adult care food program.

Can you share with me how that is coming? Have we identified barriers to standing up some of these programs? I think about specifically like the summer food programs, where you don't have the kids in the school necessarily, and they are just going to disperse over.

But how we can implement in a more efficient, a more effective way that gives the value, if you will, to the children in terms of nutritious opportunities for food during the summer or during the school year, we can do more on this. Have we identified the barriers? What do we need to do?

Mr. BIRD. It is not so much identifying the barriers, well, it is about giving the tribes control of the whole institution. They al-

ready have control of the school itself, but not the lunch component that is the mid-day of the students' existence there at school.

I was talking to a tribal member back in Sisseton, and he said that one of the things they have is a bison herd. Their goal is, or they are planning to process the meat. So they have a meat processing plant that they have implemented, that they have purchased. Their goal is to purchase the meat from their bison herd through the meat processing and then use that to feed the kids at their school.

It becomes basically a whole tribal involvement in the school as well as with the students. They are going back to eating traditional foods. That is what control of the lunch program will give those tribes the ability to do, so they can incorporate more traditional foods, whether it is bison or blueberries or other things that are grown in the community. Basically, the whole process of taking back some of the traditional ways of the tribal community and then teaching that to the kids in their student lives and their daily existence.

I think also with the school lunch program during the summer, these kids often go without meals. The daily meals that they would get during school time, they miss those during the summer. I have been back to Sisseton, I know what my cousins eat. They rely on snacks and non-nutritious foods, potato chips and other things that they get.

So having a food program that actually puts together a food bag or a food lunch program for the kids, for the kids to come to an after school program or summer school program where they actually get food that is a balanced meal, nutritious meal for those kids.

So it is a mix of things where during the school year, they are actually fed more traditional foods. But during the summer, when they can do bag lunches for the kids to take or come to a summer program, they can get those foods as well, I think are the benefits to having tribal involvement with the USDA program that provides for that community.

The CHAIRMAN. It all comes back to health. We can provide our kids with nutritious food, and again, food that they will eat, whether it is bison or in Alaska it might be salmon. It is important to make sure that we have those healthy food options there.

I am actually going to be meeting in just about an hour here with the nominee to be Secretary of Agriculture. I want to talk to her about programs like FDIPR and what more we can be doing again to making sure that we are getting some of our traditional foods into these menus again. So they are healthy and the kids will eat them.

I am going to give everybody a little bit of a homework assignment, only because I can. And it is not just for those of you who are part of our panel today. Mr. Lewis, we haven't forgotten you there in Hawaii.

I mentioned the Alyce Spotted Bear and Walter Soboleff Commission on the Native Children. Chief Smith mentioned it as well. It is something that, again, as a committee we are going to be looking at this report. The report has identified some of the systematic challenges that face our Native children. What we want to do is

now take some of the recommendations that are in the report. I would like you to take a look at it. It is not that long, it is 80.

[Laughter.]

The CHAIRMAN. There is a lot of index to it.

[Laughter.]

The CHAIRMAN. There is a summary. But I want you to go beyond the summary. I would like you to take a look at that. Then within your portfolios, whether it is education or finance or health care or housing or public safety, kind of provide us, if you will, some of the recommendations that you would like to see implemented from this to again, it is focusing on our Native children, but when our children do well, we all do well.

So I welcome your input as we develop this broader package of initiatives focused on healthy Native children. For those who are part of our listening audience, don't think that, again, we only want to hear from those who we have invited to testify today.

There has been much discussion about the impact of the recent actions as the administration has been stood up. The freeze on many of these programs, again, we have tried to make sure that it is clear that it should not impact our Federal, our Indian and our tribal programs. But in fact we know that there are all hold-ups, there are areas that we are seeing a spillover that should not be happening.

So we need to hear from you on that. I hear what my Vice Chair says. I take it to heart, because I too believe that you don't have to petition the king. This is our responsibility here in the Legislative Branch to make sure that we are representing those who we serve. When something is not within process, it is not within the rule or the law, we need to be there to speak for you as well.

So the more that we can receive from you in terms of, this portal is not opening, this funding source is not coming through, please let us know. We have an in-box on our website that welcomes these very specific initiatives. So let us try to make this a little bit easier. I know it has been hard.

The last point that I will make on this is that even though we may be able to release funds that have been delayed or halted, and we get those moving, we are seeing very clearly what is happening with the push for a reduction in employees throughout Federal service. Those are your programs. Those are programs that impact you.

So we can help you get the money released. But if there is nobody then to help execute these through the programs because they were either asked to leave or just decided that this was not the environment for them, then we are no further ahead.

So know that I take very, very carefully this as an issue, that it is not just about the funding for the programs. It is also about the ability to execute under the programs. We need to have these people in place. And for far too long within our tribal programs, we have had workforce shortages. We see it within our schools, we see it within health care, we see it in all aspects. Certainly public safety, we hear over and over and over again.

So this is yet another challenge for us. Know that we take this up. We are here to listen, to learn, and to act.

So thank you for working with us, and with this Committee.

With that, I thank everyone for your time this afternoon. The Committee stands adjourned.

[Whereupon, at 3:40 p.m., the hearing was adjourned.]

A P P E N D I X

PREPARED STATEMENT OF FRANCYS CREVIER, CEO, NATIONAL COUNCIL OF URBAN INDIAN HEALTH (NCUIH)

My name is Francys Crevier, I am Algonquin and the Chief Executive Officer of the National Council of Urban Indian Health (NCUIH), a national representative advocating for the 41 Urban Indian Organizations (UIOs) contracting with the Indian Health Service (IHS) under the Indian Health Care Improvement Act (IHCA) and the American Indians and Alaska Native patients they serve. On behalf of NCUIH and these 41 UIOs, I would like to thank Chairman Murkowski, Vice Chairman Schatz, and Members of the Committee for your leadership to improve health outcomes for urban Indians and for the opportunity to provide testimony. We respectfully request the following:

- Protect Funding for the Indian Health Service and fund Urban Indian Health at \$100 million for FY26
- Maintain Advance Appropriations for the Indian Health Service, until mandatory funding is achieved, and protect IHS from sequestration.
- Ensure Federal Policies Uphold Trust Obligations to American Indian and Alaska Native Communities.
- Reauthorize the Special Diabetes Program for Indians at \$250 million.
- Appropriate \$80 million for Behavioral Health and Substance Use Disorder Resources for Native Americans.
- Protect Medicaid and Authorize Permanent 100 percent Federal Medical Assistance Percentage for services provided at UIOs.
- Allow U.S. Public Health Service Commissioned Officers detailed directly to UIOs
- Fund the Initiative for Improving Native American Cancer Outcomes at \$10 million for FY26.

A Brief History on Urban Indian Organizations

As a preliminary issue, “urban Indian” refers to any American Indian or Alaska Native (AI/AN) person who is living in an urban area, either permanently or temporarily. UIOs were created by urban AI/AN people with the support of Tribes, starting in the 1950s in response to severe problems with health, education, employment, and housing.¹ Congress formally incorporated UIOs into the Indian Health System in 1976 with the passage of the Indian Health Care Improvement Act (IHCA). Today, over 70 percent of AI/AN people live in urban areas. UIOs are an integral part of the Indian health system, comprised of the Indian Health Service, Tribes, and UIOs (collectively I/T/U), and provide essential healthcare services, including primary care, behavioral health, and social and community services, to patients from over 500 Tribes in 38 urban areas across the United States. UIOs also work closely with Tribal and law enforcement partners to address the Missing and Murdered Indigenous People’s (MMIP) crisis.

Request: Protect Funding for the Indian Health Service and fund Urban Indian Health at \$100 million for FY26

The federal government owes a trust obligation to provide healthcare services to AI/AN people no matter where they live. In fact it is the national policy of the United States “to ensure the highest possible health status for Indians and urban Indians and to provide all resources necessary to effect that policy.”² This requires that funding for Indian health be significantly increased if the federal government

¹ Relocation, National Council for Urban Indian Health, 2018. *2018_0519_Relocation.pdf*
² 25 U.S.C. § 1601(1)

is to finally fulfill its trust responsibility. At a minimum, funding must be maintained and protected as budget-cutting measures are being considered.

Without an increase to the urban Indian health line item, UIOs will continue to be forced to operate on limited and inflexible budgets, that limit their ability to fully address the needs of their patients. A lack of federal funding is deeply impactful for UIOs who are on the front lines in working to provide for the health and well-being of American Indians and Alaska Natives living outside of Tribal jurisdictions. While UIOs historically only receive 1 percent of the IHS budget, they have been excellent stewards of the funds allocated by Congress and are effective at ensuring that increases in appropriations correlate with improved care for their communities.

We thus request Congress honor its trust obligation by appropriating the maximum amount possible for IHS and appropriating at least \$100 million for Urban Indian Health, which is in line with the House proposed amount for FY25. As the Tribal Budget Formulation Workgroup (TBFWG) report states, “Only a significant increase to the Urban Indian Health line item will allow UIOs to increase and expand services to address the needs of their American Indian and Alaska Native patients, support the hiring and retention of culturally competent staff, and open new facilities to address the growing demand for UIO services.” Increased investments in Urban Indian Health will continue to result in the expansion of health care services, increased jobs, and improvement of the overall health in urban American Indian and Alaska Native communities.

Request: Maintain Advance Appropriations for the Indian Health Service until Mandatory Funding is Enacted and Protect Against Sequestration

The inclusion of advance appropriations in the FY24 Omnibus and maintaining advance appropriations for FY25, is a crucial step towards ensuring long-term, stable funding for IHS. Previously, the I/T/U system was the only major federal health care provider funded through annual appropriations. It is imperative that Congress maintain advance appropriations for the IHS in the final spending bill for FY26 and beyond. It is also imperative to protect IHS from sequestration.

Advance appropriations improve accountability and increase staff recruitment and retention at IHS. When IHS distributes their funding on time, our UIOs can consistently pay their doctors and providers.

It is also imperative to shield and protect the IHS from cuts or funding freezes that force Indian health-providers to make difficult decisions about the scope of healthcare services they can offer to American Indian and Alaska Native patients. For example, the sequestration of \$220 million in IHS’ budget authority for FY 2013 resulted in an estimated reduction of 3,000 inpatient admissions and 804,000 outpatient visits for American Indian and Alaska Native patients.³ A recent survey from the National Council of Urban Indian Health, over half of surveyed UIOs report they would be unable to sustain operations beyond six months without federal funding.⁴ UIOs provide essential healthcare services to their patients, including primary care, urgent care, and behavioral health services, and are on the front lines in working to provide for the health and well-being of American Indian and Alaska Native people living in urban areas, many of whom lack access to the health care services that it is the federal government’s trust responsibility to provide. Any reduction or pause in funding would reduce UIOs’ ability to provide these essential services to their patients and communities, delaying care and reducing UIO capacity to take on additional patients.

Therefore, we request that you exempt IHS from sequestration in an amendment to Sec. 255 of the Balanced Budget and Emergency Deficit Control Act. We also request that IHS funding be protected from impoundment and other budget-cutting measures as is required by the trust responsibility.

Finally, while advance appropriations are a step in the right direction to avoid disruptions during government shutdowns and CRs, mandatory funding is the only way to assure fairness in funding and fulfillment of the trust responsibility. Until authorizers act to move IHS to mandatory funding, we request that Congress continue to provide advance appropriations to the Indian health system to improve certainty and stability.

³ Contract Support Costs and Sequestration: Fiscal Crisis in Indian Country: Hearings before the Senate Committee on Indian Affairs.(2013) (Testimony of The Honorable Yvette Roubideaux)

⁴ Impact of Federal Funding Pauses on Urban Indian Organizations. National Council of Urban Indian Health. 2025. https://ncuih.org/wp-content/uploads/Fed-Funding-Pause_NCUIH-D562_F3.pdf

Request: Ensure Federal Policies Uphold Trust Obligations to American Indian and Alaska Native Communities

We acknowledge and appreciate the recent steps taken by the Departments of Health and Human Services (HHS), Interior, and the Office of Personnel Management (OPM) to clarify that actions should not interfere with the United States' commitment to fulfilling its trust obligations to American Indian and Alaska Native communities. However, we remain concerned that potential future actions may fail to adequately consider this unique relationship.

Therefore, we respectfully request that the Congress take necessary steps to ensure these directives are implemented in a manner consistent with the unique political status of American Indian and Alaska Native people under U.S. law, as well as the federal government's legal obligation to uphold its trust responsibilities. Specifically, we request that Congress pass legislative text that explicitly exempts IHS from similar policies being applied across the federal government to safeguard the delivery of critical services to American Indian and Alaska Native people.

Request: Appropriate \$80 Million for Behavioral Health and Substance Use Disorder Resources for Native Americans

In response to these chronic health disparities, Congress authorized \$80 million to be appropriated for the Behavioral Health and Substance Use Disorder Resources for Native Americans Program for fiscal years 2023 to 2027. Despite authorizing \$80 million for the Program, Congress has failed to appropriate funds for this program.

We request that the authorized \$80 million be appropriated to the Behavioral Health and Substance Use Disorder Resources for Native Americans Program for FY25 and each of the remaining authorized years. Until Congress appropriates funding for this program, critical healthcare programs and services cannot operate to their full capability, putting American Indian and Alaska Native lives at-risk. This is an essential step to ensure our communities have access to the care they need.

Request: Reauthorize the Special Diabetes Program for Indians at \$250 Million.

SDPI's integrated approach to diabetes healthcare and prevention programs in Indian country has become a resounding success and is one of the most successful public health programs ever implemented. SDPI has demonstrated success with a 50 percent reduction in diabetic eye disease rates, drops in diabetic kidney failure, and 50 percent decline in End State Renal Disease.⁵ Additionally, the reduction in end stage renal disease between 2006 and 2015 led to an estimated \$439.5 million dollars in accumulated savings to the Medicare program, 40 percent of which, of \$174 million, can be attributed to SDPI.⁶

Currently 31 UIOs are in this program and are at the forefront of diabetes care. Facilities use these funds to offer a wide range of diabetes treatment and prevention services, including but not limited to exercise programs and physical activity, nutrition services, community gardens, culinary education, physical education, health and wellness fairs, group exercise activities, green spaces, and youth and elder-focused activities.

The incredibly successful Special Diabetes Program for Indians (SDPI) has repeatedly been reauthorized in Continuing Resolutions and is now set to expire on March 14, 2025. We request that the committee work with authorizers to permanently reauthorize SDPI at a minimum of \$250 million with automatic annual funding increases tied to the rate of medical inflation, to continue the success of preventing diabetes-related illnesses for all of Indian Country.

Request: Protect Medicaid and Authorize Permanent 100 percent Federal Medical Assistance Percentage for services provided at UIOs.

The Medicaid program plays a vital role in providing essential healthcare services to American Indian and Alaska Native communities, serving as a critical lifeline for those who rely on it. In fact, Medicaid is the largest source of funding for Urban Indian Organizations (UIOs) outside of the Indian Health Service (IHS). In 2021 alone, UIOs received over \$137 million in Medicaid reimbursements for services delivered to Medicaid beneficiaries, underscoring the program's significance in sustaining healthcare access for American Indian and Alaska Native populations.

⁵ 2020 SDPI Report to Congress, Indian Health Service, 2020, *2020 SDPI Report to Congress (IHS.gov)*

⁶ The Special Diabetes Program for Indians: Estimates of Medicare Savings, DHHS ASPE Issue Brief (May 10, 2019). Available at: *SDPI_Paper_Final.pdf (HHS.gov)*

NCUIH Board Vice President Angel Galvez recently emphasized the profound impact of Medicaid, stating, “The services we provide are services [our patients] can’t afford otherwise. . . What you’re doing is saving someone’s life.”⁷ This sentiment highlights the life-saving role Medicaid plays in ensuring that vulnerable populations receive the care they need.

Protecting and strengthening the Medicaid program is essential to maintaining support for UIOs and the 59 percent of American Indian and Alaska Native patients they serve who depend on Medicaid for their healthcare. Safeguarding this program ensures that UIOs can continue to deliver critical services, ultimately improving health outcomes and quality of life for American Indian and Alaska Native communities.

A top Medicaid legislative priority for UIOs is providing 100 percent federal medical assistance percentage (FMAP) for services provided at UIOs. The FMAP refers to the percentage of Medicaid costs covered by the federal government and reimbursed to states. States have received 100 percent FMAP for services provided to IHS/Medicaid beneficiaries at Indian Health Service and Tribal facilities for decades, and UIOs have advocated for parity through legislation since 1999. Extending 100 percent FMAP to UIOs will require the federal government, not states, to bear the cost of Medicaid services provided to AI/AN people no matter which facet of the Indian health system they utilize, as is required by the trust responsibility.

Ultimately, permanent 100 percent FMAP will bring fairness to the I/T/U system and increase available financial resources to UIOs and support them in addressing critical health needs of urban American Indian and Alaska Native patients.

Request: Allow U.S. Public Health Service Commissioned Officers detailed directly to UIOs

Due to chronic underfunding, many UIOs continue to grapple with hiring and retaining skilled health service providers. Detailing Public Health Service Commissioned Officers (PHSCOs) to UIOs would help address workforce shortages and increase collaboration across the federal healthcare system.

Section 215 of the Public Health Service Act (PHSA) authorizes the Secretary of Health and Human Services (HHS) to detail officers to federal agencies and state health or mental health authorities. While UIOs have requested that officers be detailed to them to fill many roles related to the functions of the Public Health Service, subsection (c) of Section 215 (42 U.S.C. 215(c)) prevents UIOs from receiving detailed officers because they do not fall within the requirement that non-profits eligible for detailing be educational or research non-profits, or non-profits “engaged in health activities for special studies and dissemination of information”.

With this being said, subsection (b) has been interpreted to allow HHS to detail an officer to a state health authority, which may then designate the UIO as the officer’s duty station. The officer is authorized to perform work at a UIO that is related to the functions of the Service, including health care services and support functions. This process is completely dependent on the availability of a State or local health authority that is capable and willing to enter into such an arrangement. The process can be burdensome and time-consuming for all involved, leaving many State health authorities reluctant to participate.

Amending the law would provide IHS with the discretionary authority to detail officers directly to a UIO to perform work related to the functions of the Service. Therefore, we request full support for this proposal to allow UIOs to continue engaging in critical health care services for urban American Indian and Alaska Native communities.

Request: Fund the Initiative for Improving Native American Cancer Outcomes at \$10 million for FY26

Rising cancer rates has become an increasingly alarming issue in Indian Country. In fact, cancer is the leading cause of death among American Indian and Alaska Native women and the second leading cause of death among American Indian and Alaska Native men.⁸ The rising cancer rates has been described by some UIO lead-

⁷ Catie Edmonson, Medicaid Cuts Pose Budget Conundrum for Valadao and Republicans Nationwide, N.Y. Times, Feb. 21, 2025. https://www.nytimes.com/2025/02/21/us/politics/medicaid-republicans-budget.html?unlocked_article_code=1.zk4.bCdx.cjxuKW_H25do&smid=nytcore-ios-share&referringSource=articleShare

⁸ Elizabeth Arias, Kenneth Kochanek, & Farida B Ahmad, Provisional Life Expectancy Estimates for 2021, Vital Statistics Rapid Release, Report 23, August 2022. Vital Statistics Rapid Release, Number 023 (August 2022) (CDC.gov)

ers as the “new diabetes” in Indian Country, with one clinic alone diagnosing 15–20 cases a month.

This is why specific funding for cancer in Indian Country is critical. The FY24 LHHS spending bill appropriated \$6 million in new funding to address American Indian and Alaska Native cancer outcomes, by creating the Initiative for Improving Native American Cancer Outcomes, the Initiative will support efforts including research, education, outreach, and clinical access to improve the screening, diagnosis, and treatment of cancers among American Indian and Alaska Native people. The purpose of this Initiative is to ultimately improve screening, diagnosis and treatment of cancer for American Indian and Alaska Native patients.

This initiative will be critical to addressing cancer-related health disparities in Indian Country. We request that the Committee continue to support the appropriation of funds for the Initiative in FY26 and increase funding to \$10 million.

Conclusion

These requests are essential to ensure that urban Indians are appropriately cared for, in the present and in future generations. The federal government must continue to work towards its trust and treaty obligation to maintain and improve the health of American Indians and Alaska Natives. We urge Congress to take this obligation seriously and provide the I/T/U system with all the resources necessary to protect the lives of the entirety of the American Indian and Alaska Native population, regardless of where they live.

PREPARED STATEMENT OF AARON HINES, CHAIR, NORTHWEST PORTLAND AREA INDIAN HEALTH BOARD

Chair Murkowski, Vice Chair Schatz and members of the Senate Committee on Indian Affairs (Committee): My name is Aaron Hines and I serve as the Chief Executive Officer at the Yellowhawk Tribal Health Center, the Tribal clinic of the Confederated Tribes of the Umatilla Indian Reservation. Today, I provide my testimony in my role as Chair of the Northwest Portland Area Indian Health Board (NPAIHB or Board). I thank Committee for the opportunity to provide this testimony on Native Communities Priorities for the 119th Congress.

NPAIHB was established in 1972 and is a Tribal organization under the Indian Self-Determination and Education Assistance Act (ISDEAA), P.L. 93–638. NPAIHB provides support to the 43 Federally-recognized Indian Tribes in Idaho, Oregon, and Washington (Portland Area Tribes or Portland Area) on specific health care issues. The Board’s mission is to eliminate health disparities and improve the quality of life for American Indians and Alaska Natives (AI/ANs) by supporting Portland Area Tribes in the delivery of high-quality health care. “Wellness for the seventh generation” is the Board’s vision. This Committee is critical to making this a reality.

I write today to urge the Committee to consider the below-listed priorities for the 119th Congress, and to utilize the lens of Tribal Sovereignty, the Trust Responsibility and Treaty Obligations, and Tribal Self-Determination and Tribal Self-Governance in all its legislative activities in the 119th Congress.

Respect for Tribal Sovereignty

The sovereignty of Tribal Nations predates the formation of the United States¹ and the Constitution. This Committee has always acknowledged this history and has upheld Tribal sovereignty in legislation impacting Tribal Nations. As recognized by the Supreme Court, Tribal Nations are distinct political bodies with the inherent right to regulate their internal affairs according to their laws and customs, which includes addressing the health and well-being of our people. The Supreme Court upholds Indian-specific legislation, recognizing the political status of Tribes rather than a racial classification.²

Portland Area Tribes, and Tribal Nations across the Nation, rely on this Committee to ensure that Congress and the Administration protect Tribal interests and the government-to-government relationship.

¹ *Worcester v. Georgia*, 31 U.S. 515, 581 (1832).

² *Morton v. Mancari*, 417 U.S. 535, 555 (1974); see also *Moe v. Confederated Salish & Kootenai Tribes of Flathead Reservation*, 425 U.S. 463, 479–80 (1976); *Washington v. Washington State Commercial Passenger Fishing Vessel Ass’n*, 443 U.S. 658, 673 n.20 (1979); *United States v. Antelope*, 430 U.S. 641, 645–47 (1977); *Am. Fed’n of Gov’t Employees, AFL–CIO v. United States*, 330 F.3d 513, 520–21 (D.C. Cir. 2003).

Honor Federal Trust and Treaty Obligations

The Trust responsibility has been defined in numerous Supreme Court cases, Executive Orders, Statutes, Regulations and other policies. According to this doctrine, the United States has legal, moral and ethical obligations to Tribal Nations. Treaty obligations are contracts between the United States and Tribal Nations that mandate the United States to provide healthcare to American Indians/Alaska Natives, among other agreements. We look to this Committee to support, promote, and include legislative language that recognizes and honors Federal trust and treaty obligations during the 119th Congress.

Preserve and Expand Tribal Self-Determination and Tribal Self-Governance

Portland Area Tribes support Tribal self-determination and Tribal self-governance through the ISDEAA. ISDEAA provides Tribes with the flexibility to tailor health care services to meet the needs of their people and communities. Since ISDEAA was enacted, numerous Tribes have entered compacts and contracts with the Indian Health Service (IHS). In the Portland Area, 38 of 43 Tribes have signed Title 1 (contracts) or Title V (compacts) agreements with IHS and administer their own programs, functions, services and activities.

We request that this Committee support Tribal Nations long-standing requests that all divisions of the Department of Health and Human Services (HHS) provide funding to Tribal Nations through ISDEAA compacts or contracts. In the interim, Portland Area Tribes request that Tribal Nations be given an option to receive grant funding through compacts or contracts. Such grants include the Special Diabetes Program for Indians, IHS Behavioral Health Initiatives, SAMSHA Tribal Opioid Response funding, etc. Moving this funding to a Tribe's compact or contract reduces Agency level expense, allows more funding to flow to direct services, and provides a Tribe with flexibility to maximize limited resources while reducing the Administrative burden of grant requirements.

Ensure Direct Service Tribes Nations are Protected from Harm

While many Tribal Nations have moved to ISDEAA compacts or contract to operate programs, functions, services and activities, the Portland Area still has five Direct Service facilities that continue to rely on IHS to provide health care to their people. With a 30 percent vacancy rate at IHS operated facilities, it is difficult to comprehend how the Federal government can meet its Trust and Treaty obligation to provide health care to American Indians/Alaska Natives. Recent Administrative actions compound long-standing vacancy rates and are destabilizing the Indian Health system. Because of the hiring freeze, one Tribe in the Portland Area has been unable to hire staff to maintain and clean their IHS facility. This is unconscionable. While the layoffs of IHS employees were rescinded on February 15 by the new Department of Health and Human Services Secretary, other Administrative Actions (past or future ones) related to the Federal workforce reductions must exempt IHS.

Fully Fund the Indian Health Service

The IHS has always been significantly underfunded. This resource gap leads to poor health and significant health disparities among American Indian/Alaska Native people. The FY 2024 level of need for the Indian Health Service was identified as \$51.4 billion while the enacted funding for FY 2024 was only \$6.9 billion. For IHS annual appropriations, the rising costs of Contract Support Costs and 105(l) lease costs have continued to diminish program increases to IHS. We still do not what the impact will be on IHS and Tribally-operated facilities for FY 2025. For FY 2026, we request that the Committee support full funding for the IHS at \$63.0 billion.

Provide Mandatory Funding for IHS

Portland Area Tribes are experiencing annual program decreases due to the rising cost of 105(l) leases and Contract Support Costs (CSCs). While we appreciate securing an indefinite appropriation for 105(l) leases and CSC, we request movement of 105(l) leases and CSC to mandatory appropriations accounts to ensure that these appropriations are funded year after year without impacting programmatic increases to IHS-operated facilities and Tribally-operated facilities.

Expand Advance Appropriations to All IHS Accounts

We appreciate this Committee's support for Advance Appropriations. We also request that Advance Appropriations for the IHS continue and be expended to every account in the IHS budget. There must also be increases to adjust for medical inflation, population growth and program increases.

Create 10 percent HHS Tribal Set Asides

Lastly, we request that this Committee support 10 percent set asides across all Department of Health and Human Service (HHS) divisions and agencies. Changes to funding opportunities by the current Administration will impact grant opportunities that have been more broadly available to other populations, not Tribal specific. We also request that HHS and its operating divisions and agencies transfer Tribal set-asides and grant funding to IHS through interagency agreements for distribution to Tribes through ISDEAA compacts and contracts.

Protect American Indians/Alaska Native People from Medicaid Program Changes

American Indians/Alaska Natives access to Medicaid is rooted in the Indian Health Care Improvement Act (IHCIA) (P.L. 94-437, U.S.C. § 1601) which acknowledges the importance of raising the health status of American Indians/Alaska Natives as a national goal, and documents the impact unmet health needs have on the health and well-being of American Indians/Alaska Natives in the United States. This legislation authorizes Indian Health Care Providers (IHCPs) to bill Medicare, Medicaid and private insurance, and amends section 1905(b) of the Social Security Act providing 100 percent Federal Medical Assistance Payment (FMAP) to American Indians/Alaska Native people for services received through IHS and Tribally-operated programs.

Portland Area Tribes request protection of 100 percent FMAP for services to American Indian/Alaska Native people received through IHS and Tribally-operated programs. Retaining 100 percent FMAP honors the Trust responsibility and Treaty obligations with the Federal government, and the intent and purpose of IHCIA.

Exempt AI/AN from State Reductions in Services, Per Capita Caps and Block Grants

The provision of health care service to eligible American Indian/Alaska Native people is a Federal Trust responsibility which is met through IHS, Medicaid/Medicare, and other HHS programs and supports. Reducing Medicaid funding will reduce available Medicaid services to American Indians/Alaska Natives and reduce Medicaid reimbursements to IHS and Tribally-operated facilities. It will also disproportionately burden State coffers; and is contrary to the legislative intent of the IHCIA.

An exemption is needed to protect Americans/Alaska Natives from any changes to Medicaid. Two 2017 bills, although not enacted, provide examples of exemptions for IHS eligible individuals from the definition of enrollees used to calculate per capita caps. The first bill is the American Health Care Act (AHCA), and the second is the Better Care Reconciliation Act (BCRA). Therefore, we request that this Committee support an exemption for American Indians/Alaska Natives from reductions in Medicaid services, state block grants, and state-based per capita spending caps.

Exempt AI/AN from Work Requirements

Medicaid work requirements dishonor the Federal Trust responsibility, weakens the IHCIA, and threatens to reduce the capacity of Indian Health Care Providers to provide health care services to American Indian/Alaska Native people because revenue from the Medicaid program to Indian Health Care Providers is used to bridge the current funding gaps at the IHS. During the first Trump Administration, several Section 1115 Demonstration Waivers provided an exemption from work requirements for American Indians/Alaska Natives, including Arizona, Indiana, South Carolina, and Utah. These exemptions align with the Federal Trust and Treaty obligations and recognize the chronic underfunding of the Indian health system.

Thank you for this opportunity to provide written testimony on Portland Area Tribes priorities for the 119th Congress.

JULIE A. MALONE

Dear Chairwoman Lisa Murkowski,

Thank you for the opportunity to comment on the priorities of Native communities for the 119th Congress to consider.

My name is Julie Malone, and I am a member of the Osage Nation in Pawhuska, Oklahoma. I also own a headright share in the Osage Mineral Estate which is 1.5 million acres of underground minerals belonging to the Osage Tribe of Indians. My grandfather was an original allottee in 1906, and I inherited my interest when my mother passed away in 2017.

Since 2014 our oil & gas producers have stopped drilling in the Osage Minerals Estate due to the long period of time it took to begin drilling. Our BIA Superintendent, Adam Trumbly, was trying to streamline the process for approving drill-

ing permits and leases. The producers were starting to return. Many Osages who rely on their royalty checks each month were excited about increased business.

On February 13, 2025 the Federal mandate that all Federal employees who were probationary removed. Our Osage Agency BIA Superintendent, Adam Trumbly was fired after one year and three months.

The U. S. Department of the Interior is our Trustee, and as such is supposed to be acting in our best interest. That is not the case in this circumstance. Is there a way to exempt Native communities from these suddenly-mandated changes? This is harmful to many Osage Shareholders, or Headright Owners and the future of our oil & gas production.

Thank you for your time and consideration.

Sincerely,
JULIE A. MALONE, OSAGE NATION MEMBER AND SHAREHOLDER IN THE OSAGE
MINERAL ESTATE

DEFENSE CREDIT UNION COUNCIL (DCUC)
February 11, 2025

SUBJECT: THE NEED FOR INCREASED ACCESS TO CREDIT UNIONS AND
FINANCIAL SERVICES IN NATIVE COMMUNITIES

Dear Chairwoman Murkowski and Ranking Member Schatz,

On behalf of the Defense Credit Union Council (DCUC) and our member credit unions, I appreciate the opportunity to submit this letter for the record regarding the Committee's oversight hearing on "Native Communities' Priorities for the 119th Congress." DCUC represents credit unions stateside and overseas serving military and veteran communities as well as their families, encompassing over 40 million members and having over \$525 billion in assets.

One of the most pressing issues facing Native American communities today is the lack of access to affordable financial services. Many Native American reservations and communities exist in banking deserts, where access to traditional financial institutions is either limited or nonexistent. This absence of mainstream financial services leaves Native Americans vulnerable to predatory lenders, check-cashing services, and other exploitative financial practices that trap families in cycles of debt and economic instability.

Credit unions provide a powerful solution to these challenges by offering safe, responsible, and community-driven financial services. Unlike for-profit banks, credit unions are not-for-profit, member-owned financial cooperatives that reinvest in their communities. This structure allows credit unions to provide lower interest rates on loans, higher returns on savings, and financial education programs that help individuals and families build financial security.

For Native communities, the benefits of establishing and expanding credit union services are clear:

- **Ending Financial Exclusion:** Credit unions can provide low-cost checking and savings accounts, small business loans, home mortgages, and emergency credit options-critical services that are often unavailable in these areas.
- **Fighting Predatory Practices:** Without access to credit unions, many Native Americans must turn to payday lenders and other high-cost financial services that charge exorbitant fees and interest rates, deepening financial hardship.
- **Encouraging Community Investment:** Credit unions reinvest in their communities, supporting small business growth, homeownership, and economic development.
- **Promoting Financial Education:** Many credit unions offer financial literacy programs that help individuals make informed decisions, build credit, and achieve financial stability.

However, despite the clear need and benefits, regulatory barriers and financial constraints often make it difficult to establish and expand credit union services in Native American communities. DCUC urges Congress to consider policies that will:

1. **Encourage and Support the Establishment of Credit Unions on Reservations**—Provide incentives and regulatory flexibility for credit unions seeking to serve Native communities.
2. **Expand Access to Capital for Native-Owned Credit Unions**—Increase funding and grant opportunities to help credit unions establish branches and digital banking services in underserved areas.

3. Strengthen Consumer Protections Against Predatory Lenders—Ensure that Native Americans are not disproportionately targeted by high-cost lending practices.

4. Enhance Financial Readiness Programs—Support initiatives that promote financial education and literacy tailored to the unique needs of Native American communities.

As an organization dedicated to serving military and defense-affiliated communities, DCUC understands the unique financial challenges faced by underserved populations, including Native American service members and veterans. By expanding access to credit unions, we can provide Native communities with the tools and resources necessary to build financial independence, strengthen local economies, and break cycles of financial hardship.

We appreciate the Committee's attention to this critical issue and stand ready to support efforts to increase financial access and economic opportunity for Native communities. Thank you for your leadership, and we look forward to working together to ensure financial security for all Native Americans.

Should you or your team have any questions or desire additional information, please do not hesitate to contact me.

Sincerely,

JASON STVERAK, CHIEF ADVOCACY OFFICER

