

PREPARED STATEMENT OF

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**TO THE UNITED STATES SENATE
COMMITTEE ON INDIAN AFFAIRS**

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**Legislative Hearing On S. 710, The Reauthorization of the Native American Housing
Assistance and Self-Determination Act of 2015 (NAHASDA)**

I. Introduction

Good morning Chairman Barrasso, Vice Chairman Tester, and distinguished members of the United States Senate Committee on Indian Affairs (SCIA). My name is Russell Sossamon. I am an enrolled member of the Choctaw Nation of Oklahoma (CNO) and for the past nineteen (19) years have served as the Executive Director of the Housing Authority of the Choctaw Nation of Oklahoma (HACNO), located in Hugo, Oklahoma. It is an honor to be invited here to present testimony on behalf of the Choctaw Nation of Oklahoma.

I want to thank the Committee for holding this important legislative hearing this afternoon on S. 710, The Native American Housing Assistance and Self-Determination Reauthorization Act of 2015 (NAHASDA). And I in particular want to express my sincere appreciation to Chairman Barrasso and his staff for introducing last week the bill for which this hearing is being conducted as the vehicle to move NAHASDA reauthorization towards passage in the Senate. As a long-time official at the CNO working in all areas of the tribal housing, I am professionally enthused by seeing this movement on Capitol Hill so quickly on this much-needed legislation barely 2 months into this new 114th Congress. And I am personally heartened not only by the good intentions that brought the bill forward but also by the good that I know will result in my community at the CNO and throughout Indian Country once the legislation is enacted. I am confident that Senator Barrasso and his colleagues on the Committee will work to move the legislation without undue delay and I thank you all in advance for your hard work in doing so.

As you may know, I testified before this Committee in the last Congress nearly 2 years ago at an oversight hearing on “Identifying Barriers to Indian Housing Development and Finding Solutions.” That was just a few months prior to the expiration of the most recent authorization of the NAHASDA at the end of FY 2013. Since that expiration over a year and a half ago, several bills have been introduced to reauthorize the NAHASDA in the Senate and House. Even prior to the expiration, the CNO, as a member of the National American Indian Housing Council (NAIHC) representing over 460 tribes and tribally-designated housing entities (TDHEs), worked with its fellow NAIHC members to push for the enactment of reauthorization legislation based upon the NAIHC’s consensus-based draft bill recommendation. At the close of the last Congress, we came close but simply ran out of time. This speedy introduction of a reauthorization bill in this new Congress here in the Senate, as well as Rep. Steve Pearce’s bill H.R. 360 introduced in the House earlier this year, should give enough time in the legislative process to enable all relevant issues to be raised and concerns to be addressed. If there is anything I can do after today’s hearing to help ensure the current lapse in authorization is soon brought to an end by the enactment of reauthorization legislation, please let me know. I would be happy to assist in any way that I can.

In my testimony today, I will touch briefly upon a few of the provisions of Chairman Barrasso’s bill that I believe will be particularly beneficial to the CNO and other tribes and TDHEs throughout Indian Country. One of those provisions is Section 705, pertaining to leveraging of NAHASDA funds, by enabling their use for matching or cost participation requirements under other federal and non-federal programs creating the potential to significantly assist the CNO and other NAHASDA recipients in multiplying the number of low-income tribal members we serve. The use of leveraging is a hallmark of the CNO’s housing programs, and I therefore will share some of our beneficial programs and outcomes made possible by the NAHASDA and other federal funds, many of which have successfully used leveraging for years.

I will also lay out some background on the CNO and the challenges it faces in providing services to its members, as well as to members of dozens of other tribes who live within our Nation’s service area. I will then examine some of the reasons why the provision of safe, quality, affordable housing in Indian Country generally, and within the CNO in particular, is such a challenge. This will be followed by background information on the federal legislative and administrative efforts to address that challenge, which ultimately culminated in the passage of the NAHASDA. That will lead me into examples of the innovative and effective housing programs administered through the HACNO, including the use of leveraging, to show why this Congress should continue to support tribal housing programs and work to quickly approve the reauthorization of the NAHASDA during this current fiscal year. Importantly, that reauthorization should include, as Senator Barrasso’s bill currently does, the affirmation and respect for the negotiated-rulemaking process. Like all federal legislation that aims to accommodate the needs of many tribes across the country, from the perspective of a practitioner, there are some minor points in Senator Barrasso’s bill that could be refined to increase its

effectiveness, so in conclusion I will point out of those that Congress may consider examining for potential revision in the upcoming legislative process for the NAHASDA reauthorization.

II. Likely Benefits of S. 710, the Native American Housing Assistance and Self-Determination Reauthorization Act of 2015

The NAHASDA Reauthorization Act of 2015, if passed, would be a big stride in the federal government's fulfillment of its trust responsibility towards tribes and TDHEs. There are a multitude of benefits – the HUD-VASH program to assist homeless and at-risk veterans housing and with rental assistance programs; the elimination of redundant environmental reviews for multi-sourced federally funded projects; and the list goes on. I will touch upon a few of particular importance to the CNO and other NAHASDA recipients:

Section 101 - Treatment of Program Income – Part of this section clarifies that income realized by a recipient from program income is “non-program income” that is not subject to restrictions on use. This is consistent with current regulations that are not as succinctly stated. The current regulations have to link together from various places for the intent to be clear. Often the those connections are not made and tribes are forced to use scarce resources on unnecessary administrative burdens. This will prevent recipients from having to track program income in perpetuity no matter how tenuous its connection to the original grant funds becomes over time.

Section 102 - Environmental Review – This section eliminates excessive administrative burdens by providing tribes with a consistent single point of contact in conducting federal environmental review.

Section 103 – Authorization of Appropriations – This provision's absence of a cap on the amount of authorized appropriations and permitting the option for the appropriation of such sums as may be necessary for the NAHASDA is much needed. While the NAHASDA funds are immensely appreciated by tribes and TDHEs and are tremendously helpful in beginning to meet tribal housing needs, they have never, in the history of the program, been sufficient to meet all of the basic housing needs of Indian tribes or to accomplish all of the purposes for which the NAHASDA was designed. Like many government programs, it is consistently and continuously underfunded. Therefore, tribes and their housing departments such as the HACNO have been forced to creatively think of ways to stretch their dollars and come up with unique and innovative tools to meet the housing needs in their communities. At the CNO, we are moving towards our goal of self-sufficiency, but still have a ways to go. We know the absence of any authorized funding cap is no guarantee of increased funding by appropriators, but it at least does not limit available options.

Section 202 – Homeownership or Least-to-Own Low-Income Requirement and Income Targeting.

This provision removes requirements for binding commitments for *de minimus* home repairs and renovations. It will help the CNO address inefficiencies that have plagued our programs for years. Section 205(a) (2) of the NAHASDA requires that housing units remain affordable for either the remaining useful life of the property, as determined by the Secretary, or for another period that the Secretary determines is the longest feasible period of time consistent with sound economics and the purpose of the Act. The Act also requires that this affordability be secured through binding commitments satisfactory to the Secretary. Unfortunately these provisions regarding binding commitments have been interpreted so as to result in the unintended consequence of creating a lien on an entire housing unit and thereby bind up a much-needed housing asset, for even the smallest binding commitments that were made for very minor maintenance or repair expenditures. This creates an unnecessary expense and heavy administrative burden for small maintenance and repair expenditures. In short, Section 202 of the NAHASDA Reauthorization Act of 2015 would provide that the binding commitments for the remaining useful life of property will not apply to private home improvements if the costs of the improvements do not exceed 10 percent of the maximum total development cost for the home. Not only will this free up actual needed homes, but it will also permit us to use the monies currently spent on administering liens to actual programmatic use.

Section 501 – HUD-VASH Program for Native American Veterans – This section provides opportunities for tribes to access resources to assist our homeless and at-risk veterans’ housing and support needs. The rental vouchers in conjunction with coordinated support services of other vital programs and benefits allow us to go beyond fundamental housing and holistically meet the needs of our heroes.

Section 502 – The 99-year Leasehold Interest in Trust or Restricted Lands for Housing Purposes - This provision will provide tribes and TDHEs with the ability to make long-term lease commitments that encourage potential homebuyers to invest and attract private capital that is desperately needed beyond currently available resources. This is a key condition to creating an environment that, in addition to enhancing our ability to achieve the primary objective of meeting housing needs, also has the potential to develop and/or expand economies into these areas.

Section 504 - Loan Guarantees for Indian Housing – This section removes the cap on the total value of loans that the § 184 program can guarantee in a given year, thereby permitting the maximum usefulness of the program.

Section 701 – Community-Based Organizations and Tribally Designated Housing Entities – This section would make TDHEs eligible as community-based development organizations (CBDOs) under the Indian Community Development Block Grant (ICDBG) program. This is particularly important to the CNO. Last year the CNO provided the matching funds for the ICDBG grant application for the HACNO to develop an Independent Elders Living Community development in a tribal area that currently does not have one. The project included the purchase of a minimum

20 acres of land, infrastructure development of the property, and initial construction of 10 single family rental units. We have successfully completed six other projects just like this using the NAHSDA funding in the past in areas across half of our total service area. These initial sites were shovel ready and expanded when the American Recovery and Reinvestment Act (ARRA) funding was made available. Other funding has also been used to expand the existing sites. Now we are planning on developing similar sites across the other half of our service area over a five-year period. The only reason our application was not funded was because of the absence of a CBDO designation. While the NAHSDA legislation has improved over the years to adapt to changes in the environment to take advantage of opportunities and create solutions to our challenges, the ICDBG language remained constant, becoming obsolete at best and in our circumstance actually illogical. This measure is long overdue and tremendously needed.

Section 705 – Leveraging – This provision will allow NAHSDA funds to be used as matching or cost participation funds under any other federal or non-federal program. As noted in more detail below, CNO’s Home Finance Program already provides assistance through the leveraging of funds with lending partners to increase the number of potential home loans throughout the country. The Home Finance Program also has leveraged nearly \$70,000,000 through participating lending partners who provide mortgages as part of government guarantee programs such as the Native American Section 184, Federal Housing Administration (FHA), Veterans Administration (VA), and U.S. Department of Agriculture Rural Development home loan programs. The Nation appreciates this opportunity to potentially use NAHSDA funds in more varied ways to multiply the results of our programs and services.

Before I delve into some of the success stories leveraging have enabled at the CNO, some background information on the Nation and its NAHSDA-funded programs is provided for context.

III. The Choctaw Nation of Oklahoma – Large-Scale Challenges and Opportunities

The housing issues in Indian Country cannot be separated from the big-picture social and economic challenges it also faces, and the CNO knows those challenges all too well. The CNO is the third largest Indian tribe in America, with over 200,000 enrolled tribal members spread all across the country. In a word, the CNO is immense. Inherent with that greater size and breadth are even greater responsibilities that are placed on the shoulders of the Nation’s government to look after the welfare of its members. To add to that responsibility, the Nation’s service area encompasses 10½ counties in southeastern Oklahoma, a land area larger than the entire state of Massachusetts, and within that service area are American Indian and Alaska Native constituents who may be far from their original tribal communities but to whom the CNO nonetheless provides services. Just one example is the tremendous demand placed on the Choctaw Nation of Oklahoma Health Services (CNOHS), which have provided healthcare services to patients who hailed from 148 different American Indian and Alaska Native tribal groups.

With an increasing tribal population and stifling economic conditions that have hit tribal communities such as the CNO particularly hard over the past several years, the social and economic needs of the Nation's and its members continue to grow. This increased need is particularly acute in the area of housing.

IV. The Housing Challenges in Indian Country and for the CNO

The challenges to providing quality, affordable housing in Indian Country generally and within the CNO specifically stem mostly from the broader overriding economic realities that occur in tribal communities. While the country in general has experienced an economic downturn and slow recovery over the past several years, this trend is greatly magnified in tribal communities. Often there is a lack of basic infrastructure and employment opportunities. These employment and infrastructure challenges exacerbate the housing situation in Indian Country. As countless other witnesses have testified at hearings such as this has historically been the case at the national level, Native Americans face some of the worst housing and living conditions in the country, and the availability of affordable, adequate, safe housing in Indian Country falls far below that of the general U.S. population.

The housing needs of members of the CNO, especially given the large size and breadth of its population, reflect the great need across Indian Country. However, because there are also many tribal members from other tribes across the country living within the CNO's service area, there are also unique challenges for the HACNO, as shown by the following figures for Fiscal Year 2015:

- Nearly seventeen percent (17%) of the American Indian/Alaska Native (AIAN) population living within the CNO's service area are tribal members from other tribes.
- Approximately 10,628 households within the CNO's service area are considered low-income, meaning they have annual incomes of less than 80% of the national median annual income. Of those households, an astounding 29.7% earn only between 30% and 50% of the national median annual income, and even worse, 29.8% earn less than 30% of the national median annual income.
- Approximately 1,505 AIAN households within the CNO's service area are overcrowded or lack a kitchen or plumbing.
- Of the AIAN households within the CNO's service area, 2,086 households have a house cost burden greater than 50% of their annual income.
- In starkest terms, during this fiscal year the HACNO has a shortfall of 9,995 low-income units.

In sum, there is a severe housing shortage in our service area's tribal communities, resulting in overcrowded conditions. Many of the homes that do exist lack basic amenities that most

Americans take for granted, such as full kitchens and plumbing, and even then many of the existing homes are in need of substantial repairs.

As shown by the low-income numbers above that persist within our tribal communities, the HACNO (and more generally, the CNO itself) understands that, in order to address acute housing needs, it is necessary to take a holistic approach that addresses the poverty cycle more generally to make our tribal members and other constituents that we serve self-sufficient – this is how we move from homelessness to homeownership. And that is why the HACNO views its mission from a higher level with two prongs, one to address the lack of affordable housing and the other to address the poverty cycle that produces and reinforces such a lack of housing. The CNO and its HACNO truly believe that, to paraphrase a metaphor, although it may be necessary in the short run to give a man a fish to eat today, it is better to teach him how to fish so that in the long run he can eat for a lifetime. In order to pay a mortgage and become a homeowner, a person first needs a job to earn income, and that requires education, training, and career development. Like the partnerships laid out below that we use to address home financing with a variety of loan-assistance products, we likewise partner with other educational and social programs provided by the CNO as well as by the federal government and other local and tribal governments to build the whole person in a variety of ways. The support we provide through NAHASDA funding and related programs is one of the critical pieces to building that whole person.

V. Background on Indian Housing Legislation and Administration, Culminating with the Native American Housing Assistance and Self-Determination Act (NAHASDA)

Prior to the NAHASDA, housing assistance for Native American tribes and Alaska Natives was provided by various programs under the Housing Act of 1937 and other legislation. While these programs provided a broad range of assistance, they were administratively cumbersome and ineffective. They required separate applications and program administration, had different eligibility requirements, and were characterized by micro-management and detailed one-size-fits-all mandates. The programs were merely an extension of generic and often urban-oriented housing programs, failing to recognize the unique social, cultural, and economic needs of Native American communities.

In 1960, in the aftermath of the destruction of Indian homes in California by fire, the Bureau of Indian Affairs requested that the Department of Housing and Urban Development (“HUD”) address Indian housing needs. In 1961, two major events changed the Indian housing landscape. First, the Public Housing Administration (PHA, HUD’s predecessor) recognized tribal governments as local governing bodies that could establish Indian housing authorities (IHA) under tribal law by approving a tribal ordinance. Second, PHA also determined that states could establish IHAs in cases where a tribal government was not federally recognized but exercised all necessary powers. Soon after, the self-help or mutual help concept took hold and was based on the idea that a homebuyer would contribute land, material, or labor (“sweat equity”) towards the purchase of a home. In December 1962, PHA announced the first mutual help housing program,

and in 1964, the San Carlos Apache IHA launched the first mutual help project. Indian homes were developed under this program known as “Old Mutual Help” until 1976.

In the early 1970s, there were high expectations for the federal government to work with tribes and IHAs to satisfy national Indian housing goals and to address the reality of inadequate management systems. In 1971, the Government Accounting Office (GAO) issued a Congressional report on Indian housing that recommended a national Indian housing policy to stimulate agency coordination and accelerate the completion of projects. In 1984 HUD formally created the Office of Indian Housing (OIH) with its own staff to specifically oversee the development and management of Indian housing programs.

In 1990, Congress established the National Commission on American Indian, Alaska Native, and Native Hawaiian Housing, which two years later submitted to Congress a national blueprint plan for Indian housing. On October 1, 1993, the HUD Office of Indian Housing (OIH) at HUD Headquarters in Washington, D.C. and the Regional Office of Indian Programs (OIPs) became the Office of Native American Programs (ONAP).

In 1996, Congress passed the Native American Housing Assistance and Self-Determination Act (“NAHASDA”) to provide federal statutory authority to address the above-mentioned housing disparities in Indian Country. The NAHASDA is the cornerstone for providing housing assistance to low-income Native American families on Indian reservations, in Alaska Native villages, and on native Hawaiian home lands. Since the passage of the NAHASDA in 1996 and its funding and implementation in 1998, the Indian Housing Block Grant (“IHBG”), the primary funding component of the NAHASDA, has been the single largest source of funding for housing for Native American communities and in Alaska Native villages. The NAHASDA also includes the Title VI loan guarantee program, which enables tribal members to more easily access home loans. Administered by HUD, the NAHASDA specifies a wide range of activities that are eligible for funding. These activities include but are not limited to down-payment assistance, property acquisition, new construction, safety programs, planning and administration, and housing rehabilitation. Not only do IHBG funds support new housing development, acquisition, rehabilitation, and other housing services that are critical for tribal communities; they cover essential planning and operating expenses for tribal housing programs. A significant portion of IHBG funds are required for planning, administration, housing management, and services. Without this critical federal funding, many tribal housing authorities would be unable to operate.

While some members of Congress are now focusing on the unexpended funds in the NAHASDA block grant accounts, and mistakenly conclude that the program is overfunded. In fact, despite the positive developments in federal law and the impact of the NAHASDA, the funding it provides is plainly and simply insufficient to meet the existing and, in fact, growing housing need in our tribal communities.

VI. Innovations and Examples from the Housing Authority of the Choctaw Nation of Oklahoma

Out of sheer necessity and in the interest of promoting tribal self-determination and self-governance, tribes across the nation have begun developing innovative programs that complement the NAHASDA programs in order to meet the tremendous housing backlog in Indian Country. The HACNO has been at the forefront of these innovations in Indian Country, in order to address the housing needs not just of our members but of Native American tribal members from across the country.

a. United States Housing and Urban Development Section 184 Indian Home Loan Guarantee Program & NAHASDA Title VI Housing Activities Loan Guarantee Program

The Section 184 Loan Guarantee Program was created by the Housing and Community Development Act of 1992 to address the lack of mortgage lending in Indian Country. The HUD Section 184 program is a mortgage loan product designed to resemble a conventional, or private, housing loan program. There are no income limits for the Section 184 program. Local lenders become registered with the program and as such the federal government guarantees up to 100% of the home loans provided by such lenders to tribal members. Initially, the program gained acceptance in areas such as Oklahoma and Alaska, where much of the property in Indian areas has passed out of trust status and into “fee” status, meaning that the federal government no longer holds title to the individual parcel for the benefit of the tribe or the individual tribal member. Over time, the program has gained some traction on trust lands. Because the Section 184 Indian Home Loan program is guaranteed by the federal government, the program has provided much needed access to capital to many individual Natives that might otherwise find home financing difficult. The Section 184 program is the most successful Indian Country mortgage program. However, it should be noted that fewer than 20% of the Section 184 loans made to tribal members have been made on tribal trust or individual allotment land. More than half of the Section 184 loans have been made in Alaska and Oklahoma and because of the unique non-reservation system of land tenure for most Indian and Alaska Native groups in those states, nearly all of those loans were made for homes on fee simple land rather than trust land.

In addition to the Section 184 program, under Title VI of the NAHASDA, HUD is authorized to guarantee notes or other obligations issued by Indian tribes, or tribal housing entities, if approved by the tribe, for the purpose of financing affordable housing activities as described in Section 202 of the NAHASDA. Eligible borrowers must be a tribe or a tribal housing entity that is an IHBG program recipient. IHBG funds may be used as security for the guarantee or other obligation. The objectives of the program are to enhance the development of affordable housing activities, increase access to capital to further economic growth, and encourage the participation,

in the financing of tribal housing programs, of financial institutions that do not normally serve tribal areas.

b. Choctaw Home Finance Services: On the Path from Self-Determination to Self-Sustainability through Nationwide Direct and Leveraged Home Lending in Indian Country

Tribes are increasingly exploring innovative ways to utilize the NAHASDA grant funds, combined with tribal funds and other resources, to maximize housing project outputs. The passage of the NAHASDA in 1996 and its funding in 1998, as well as other complementary Indian housing programs, have spurred the HACNO to creatively partner with lenders or utilize existing funds to enhance the effectiveness, efficiency, and success of housing projects. There is no greater example of such creativity in Indian Country than the HACNO's flagship program for home finance services offered through the Choctaw Home Finance Corporation.

The Choctaw Home Finance Corporation (CHFC) was incorporated in 2002 as a 501(c)(3) not-for-profit corporation to be the lending institution for the Choctaw Nation's Home Finance Program activities. The CHFC is also a certified Community Development Financial Institution (CDFI) through the U.S. Department of Treasury, meaning the federal government recognizes it as a financial institution working in underserved and economically-distressed markets that are often times not served by other traditional financial institutions. The CDFI certification enables the CHFC to access financial and technical award assistance through such things as the Native American CDFI Assistance Program, among others.

The CHFC is dedicated to successful private homeownership by offering affordable mortgage loans and counseling services to Native American families nationwide through its Home Finance Program, with a particular emphasis on serving low-income families who likely would not otherwise be able to own a home of their own. The Home Finance Program provides assistance through both direct lending as well as through the leveraging of funds with lending partners to increase the number of potential home loans throughout the country. (Leveraging funds is simply investing with borrowed money in a way that multiplies potential gains). The Home Finance Program has assisted not just members of the CNO but Native American families throughout Indian Country with over \$45,000,000 in direct loans for homeownership and down payment/closing cost assistance. The Home Finance Program also has leveraged just under \$70,000,000 through participating lending partners who provide mortgages as part of government guarantee programs such as the Native American Section 184, Federal Housing Administration (FHA), Veterans Administration (VA), and U.S. Department of Agriculture Rural Development home loan programs. The private lending partners that CHFC has worked with include Wells Fargo, First United Bank, First Mortgage Company, First American Mortgage, Colonial Mortgage, Bank 2, Principal Mortgage Company, Arvest Bank, Gateway Mortgage, First Bank, BancFirst, Bank of Oklahoma, and Equity Bank.

The CHFC has a number of loan products available to meet the variety of financing needs of the families we serve. These products include loans for purchasing, refinancing, construction, improvements, and energy efficiency upgrades. One of these loan products, a direct loan to purchase a new home or refinance their current home at a more affordable rate and/or term, helps families receive an affordable loan with manageable fees. It also includes extremely professional guidance by a staff whose mission is to enhance the lives of all members through opportunities designed to develop healthy, successful and productive lifestyles.

Another loan product is a progressively subsidized homebuyer construction and finance service specifically for our low-income Native American families. The interest rate and terms are specific to low-income family needs, and the construction service is extremely valuable to those who need the added construction support from trained construction professionals to make informed decisions and get the most out of the amount they qualify for.

The CHFC also provides small, affordable streamline loans for home improvement, rehabilitation and/or energy efficiency upgrades. These loans help with necessary repairs to improve living conditions and property values, and also help with energy efficiency that results in lower utility payments, thereby freeing up more disposable income.

The CHFC closes on average 100 loans a year for Native American mortgages and down payment assistance. Additionally we leverage an average of 85 loans per year with our private lending partners. CHFC manages a loan portfolio of over \$23,000,000.

The Home Finance Program is designed to function as a revolving loan fund. Funds are loaned out to the Native American participant and paid back in the form of principal and interest payments. The funds are then loaned back out to other Native American participants. There is a multiplier effect at work within the Program – the more loans made, the more principal and interest is repaid and those funds are then used to provide even more loans. This truly creates a self-sustaining service that sets the HACNO and its program participants on the path to self-sufficiency.

As a HUD-approved counseling agency, the CHFC also offers homeowner counseling services. Prior to extending a loan, each borrower is required to complete a homebuyer counseling session that provides education and information about the responsibilities and commitments required to be a successful homeowner. These sessions cover understanding, establishing, and maintaining good credit; personal financial planning and budgeting; and counseling to assist tribal members in becoming mortgage-ready. It prepares them for the reality of homeownership as to the necessities of paying for a mortgage, insurance, taxes and maintenance expenses. CHFC also provides post-loan counseling, include ongoing individual counseling as needed to develop the skills necessary to become a successful homeowner. The counseling and education that the Home Finance Program services provide help its Native American beneficiaries become more

knowledgeable, less likely to become victims of predatory lending practices, and more likely to successfully manage their personal finances to become responsible homeowners. These services are a critical tactic in our strategy to break the cycle of poverty for our member families. They empower the members to understand their home as an asset they have invested in that not only creates wealth that can be transferred from one generation to another, it is an asset that they can use throughout their life as a financial tool that helps them achieve other goals like higher education, entrepreneurial investments, large purchases such as vehicles, and debt consolidation and management, thereby preserving wealth they've accumulated through their earnings. We serve an average of 400 individuals per year through our counseling services.

The benefits of the CHFC Home Finance Program extend well beyond just the Native American program participants, into their surrounding communities. Furthermore, the CHFC provides opportunities for Choctaw tribal members and others to attain home ownership nationwide by partnering with mortgage companies that offer Section 184, FHA, VA, USDA Rural Development, and even conventional loans, well beyond our service area in southeastern Oklahoma. The tribal members to whom we extend financing services -- either directly or through our private lending partners -- are predominantly located in the states of Oklahoma, Texas, California, Oregon, Washington, Arkansas, and Colorado, but also in many others, and these members add to the local taxes bases by paying annual property taxes. In the Choctaw Nation's ten and a half (10 ½) county service area in southeastern Oklahoma alone, over \$100,000 was added to local real property tax bases in 2014 by the tribal members we serve. This too has had a multiplier effect -- an average of 7.5 jobs were created or sustained through each loan closing in the employment of appraisers, surveyors, title companies, and attorney services, totaling 855 new jobs annually. An even greater multiplier effect can be seen throughout the country, as the partnership of the CHFC with lenders in states that do not have tribes with their own Section 184 or similar Indian home loan guarantee programs means that the CHFC's leveraging of monies from such programs can extend those programs' effects to members in those states and likewise add to the their local tax bases, increase employment opportunities, and have other positive effects. By doing so, the CNOs positive effects are felt well beyond its service area in southeastern Oklahoma. For example, there are approximately 20,000 CNO tribal members living in the State of Texas, making it the largest tribal population in that state, and the Home Finance Program assistance services provided to those members is second only to Oklahoma.

These innovations and successes by the HACNO point to the effective good that can be done through federal Indian housing programs. They also point to reasons why Congress should timely reauthorize the NAHASDA this fiscal year.

VII. Congress Should Act Swiftly to Approve the Reauthorization of the Native American Housing Assistance and Self-Determination Act, While Fully Supporting the Negotiated Rulemaking Process for Its Implementation

Congress enacted NAHASDA in 1996, establishing the IHBG program for the benefit of American Indian and Alaska Native groups. The main goals of the bill were explained by one of its chief sponsors, Rep. Rick Lazio:

- Affirm tribal self-determination by giving tribes the ability and responsibility to strategically plan their own communities' culturally-relevant development.
- Provide the maximum amount of flexibility in the use of housing dollars, within strict accountability standards.
- Allow for innovation and local problem-solving capabilities that are crucial to the success of any community-based strategy.
- Avoid over-burdening tribes and housing authorities with excessive regulation.

The NAHASDA was last reauthorized in 2008 when Congress again reaffirmed the foregoing important purposes to be served by the legislation. That reauthorization expired on September 30, 2013.

Congress must quickly reauthorize the NAHASDA. Without the NAHASDA, it is not likely that any of the success stories from the HACNO discussed above, or from many other tribal housing authorities across the country, would have been achieved.

a. Negotiated Rulemaking Process: Keeping the Government-To-Government Relationship

In accordance with section 106 of NAHASDA, HUD originally developed the regulations for implementing the Indian Housing Block Grant with active tribal participation and using the procedures of the Negotiated Rulemaking Act of 1996, 5 U.S.C. §§ 561-570. The NAHASDA reauthorization legislation of 2008 amended section 106 of the NAHASDA to require HUD to initiate negotiated rulemaking. In accordance with that statutory directive, HUD provided notice in the Federal Register establishing the NAHASDA Reauthorization Act Negotiated Rulemaking Committee (“Neg-Reg Committee”) and asked for tribal nominations to serve on the Committee. The final Committee consisted of 25 tribal members and 2 HUD representatives, including tribal representatives from every region of the country, state-recognized tribal representatives whose tribes are eligible for the NAHASDA funding, and the Assistant Secretary for Public and Indian Housing and the Deputy Assistant Secretary for Native American Programs. Six negotiated rulemaking sessions were held to achieve a final rule for the implementation of the 2008 NAHASDA reauthorization amendments.

Probably the most important issue tackled through negotiated rulemaking has been the development of the formula by which tribes are allocated funds under the IHBG. That formula and the negotiated rulemaking process used to achieve it are the result of countless meetings and exchanges among tribal leaders and federal officials. A carefully-constructed balance of competing interests and ideals has been reached. The formula serves the diverse tribal communities affected and tribal leaders worked hard and long with federal officials to achieve that balance. Key to that formula's effectiveness is the fact that it uses U.S. Census data to take into account the need of every tribal recipient of the NAHASDA block grant funding. Any necessary changes to that allocation formula or to any other IHBG regulation should be subjected to the same negotiated rulemaking process.

Within the reauthorization of the NAHASDA, it is not just incumbent upon, but morally, historically, and politically imperative that Congress refrain from statutorily changing features of the IHBG program funding distribution formula. Rather, those changes, if any, should be left to the tribes and the federal government to address within the context of the negotiated rulemaking process. This process has not only been used to effectively implement the NAHASDA since its inception, but it is also an irreplaceable component to achieving the original purposes of the NAHASDA set out above.

An issue currently being addressed by the Formula Neg-Reg Committee convened last year is the population data set to be used in the formula. After annual appropriations bills are enacted, the U.S. Department of Housing and Urban Development (HUD) Office of Native American Programs (ONAP) applies the IHBG formula to determine tribal distributions. HUD currently uses data from the most recent U.S. Decennial Census, projected forward to the present year using birth and death rates, to determine the population figures for the Need component of the IHBG allocation formula.

Last year, HUD planned to replace its use of U.S. Decennial Census figures in the IHBG formula with data from the Census Bureau's annual American Community Survey (ACS). The ACS is an ongoing nationwide statistical survey conducted by the U.S. Census that samples a percentage of the U.S. population on a smaller scale and compiles information every year, allowing for more up-to-date reporting of data than the Decennial Census. However, any shift in the data source likely will cause shifts in funding. Based on projected effects, some NAHASDA funding recipients also have questioned the ability of the ACS to accurately capture tribal enrollment information due to alleged issues with sampling, response, and inclusion rates.

The Formula Neg-Reg Committee that convened last year researched and discussed these data set issues and put forward a unanimous proposal to address it. Under the proposal:

- Use of U.S. Census data will continue through the FY 2017 allocation.
- A study group within the current Formula Neg-Reg Committee is carrying out a 12-month project to research relevant data sources, including the ACS and others, and how each may be used or modified for use in the IHBG allocation formula. Their research will seek to find a nationally-applicable source that optimally balances accurate assessment of actual needs, equity, minimizing disruption of tribal housing programs, practicality (including costs of implementation), and respect for tribal sovereignty.
- The Formula Neg-Reg Committee will then review the study group's findings to consider an alternate data source. Any new source would not be implemented until the FY 2018 allocation.
- Finally, when a new data source is selected, the impact it causes upon implementation (whether it be a gain or loss in funding) will be spread over time (all tribes would still be subject to any proportional increase or decrease in funding resulting from the overall level of congressional appropriations, or funding shifts caused by the ongoing annual changes in the demographic data). This proposed regulatory funding formula mechanism is designed to function as a volatility control on individual tribal funding levels resulting from utilization of a new data source.

The CNO encourages the Administration and Congress to allow the Formula Neg-Reg Committee to conclude its review of potential data sets for use within the IHBG formula and not legislatively address this issue, as S. 710 rightly does not attempt to do. If the Neg-Reg Committee determines an alternative data set to be better than the ACS, based on the criteria above, then use of such data within the IHBG formula should be implemented by regulation. If the Neg-Reg Committee is unable to find a better alternative data set, then ACS should be used as originally planned by HUD.

While no population demographic data sets are perfect, the U.S. Decennial Census data currently used and the proposed ACS are the most accurate and reliable data sets available that are uniformly gathered nationally by an independent third party. The ACS makes up for the normally reduced sample sizes used in small populations, similar to many Native American and Alaska Native communities, by compiling estimates over several years, and according to information presented to the Formula Neg-Reg Committee by a Census Bureau representative, in these particular communities they actually increase the sample size of the surveys.

According to the U.S. Census, information from the ACS survey generates data that helps determine how more than \$400 billion in federal and state funds are distributed each year. ACS data has been deemed accurate and reliable enough to support, among things, the Indian Health Care Improvement Act and the Native American Programs Act, as well other laws affecting Indian Country, such as the Civil Rights Act, the Veterans Benefits Improvement Act, Johnson

O'Malley and the Workforce Investment Act. In fact, last year tribal leaders in the National Congress of American Indians adopted a resolution recognizing U.S. Census Bureau data as the most accurate data source for the Johnson O'Malley AIAN target population count.

Any attempt to require tribes and TDHEs who receive IHBG funding to collect and submit their own survey data of the AIAN populations they serve would be fraught with additional problems that likely will outweigh any benefit: (i) the financial burden of collecting such information could be enormous and shifted entirely to tribes; (ii) many tribes will not have the internal administrative capacity, expertise, or manpower to carry out their own data collections; and (iii) many tribes and TDHEs serve not only their own tribal members but other American Indians and Alaska Natives within their service areas from whom no more accurate data is likely to be gathered.

Rather than completely scrapping use of ACS data even if a better data set is not recommended by the Formula Neg-Reg Committee, the CNO would suggest that HUD and the U.S. Census Bureau collaborate with tribes to consider ways to improve ACS implementation, and thereby improve its accuracy. As an example, in addition to asking for racial and ethnic identification, the survey also could request the tribal affiliation of those who identify as AIAN. Improving ACS implementation, rather than reinventing the data set wheel, is the best and most cost effective path to follow if the Formula Neg-Reg Committee does not find a better alternative.

The reason the negotiated rulemaking process generally, and the funding formula developed through that process in particular, must be kept in place is clear: the federal government has long since (and correctly) acknowledged that tribal representatives are the best decision-makers for policy choices that affect tribal communities, and even though the federal government has a trust responsibility towards tribes, that responsibility is best carried out by encouraging and supporting the government-to-government relationship between tribes and the federal government. That is exactly what the negotiated rulemaking process does -- it allows representatives from tribes and tribal housing authorities to engage one another over the programmatic rules that govern their day-to-day operations, with federal representatives at the table to provide input, but most importantly, to listen and incorporate the tribal input into the final rule. This is exactly the type of scenario contemplated by Rep. Lazio and other original sponsors of NAHASDA legislation, because the negotiated rulemaking process without a doubt enables tribes to plan their community development, provides flexibility in the expenditure of resources while maintaining accountability for the good of all of Indian Country, encourages and spreads innovation among tribal representatives, and avoids unnecessary and irrelevant regulation.

With the foregoing in mind, the timely reauthorization of the NAHASDA, with the allocation formula negotiated rulemaking in place to address any necessary substantive changes, should be one of Congress's top priorities before the end of this fiscal year.

VIII. Possible Refinements to the NAHASDA Reauthorization Act of 2015

NAHASDA has undoubtedly improved the housing situation in Indian Country. However, like any national legislation aimed at addressing chronic and overarching problems in Indian Country, the NAHASDA Reauthorization Act of 2015 can be refined slightly for better results. From my perspective as a stakeholder responsible for executing delivery of services and overall grant management I respectfully offer the following suggested refinement for your consideration.

Section 301, Effect of Undisbursed Block Grant Amounts on Annual Allocations, reallocates to other IHBG recipients the excess of undisbursed block grants for a recipient if the amount in HUD's line of credit control system is greater than 3 times the formula allocation the recipient would otherwise receive for that fiscal year. This provision, although included with the right intent, should be clarified to make explicit that the statute is referencing the sum of the recipient's last three years of IHBG grant awards, in order to best protect the recipient from unforeseeable consequences in the event of the need for an overall appropriation reduction in any particular year. Such an event is beyond the control of those responsible for planning, managing, and timely execution of the delivery of services to ensure drawdown rates are within identified thresholds. Using the sum of the previous three years' grant allocation amount is based on known variables that ensure accountability without the chance of punitive action for circumstances beyond the control of the recipient. Further, this language creates a mechanism that adjusts the amount annually if the overall appropriation goes up or down. It also provides adequate time to recalibrate drawdown rates.

IX. Conclusion

Thank you Chairman Barrasso, Vice Chairman Tester, and members of the Senate Committee on Indian Affairs for allowing me to testify here today regarding S. 710, the Native American Housing Assistance and Self-Determination Reauthorization Act of 2015. Your continued support of our efforts, including a speedy reauthorization of NAHASDA, is truly appreciated, and I and my staff at the Housing Authority of the Choctaw Nation of Oklahoma stand ready to assist you in any way that we can.

This concludes my testimony. I would be glad to answer any questions you may have.