

HOUSING FOR NATIVE AMERICANS: REVIEW OF FEDERAL PROGRAMS, BARRIERS, AND OPPOR- TUNITIES

HEARING

BEFORE THE
SUBCOMMITTEE ON
HOUSING, TRANSPORTATION, AND COMMUNITY
DEVELOPMENT
OF THE
COMMITTEE ON
BANKING, HOUSING, AND URBAN AFFAIRS
UNITED STATES SENATE
ONE HUNDRED SEVENTEENTH CONGRESS
FIRST SESSION
ON
EXAMINING HOUSING INSECURITY IN NATIVE COMMUNITIES AND
THEIR EXPERIENCES WITH FEDERAL INDIAN HOUSING PROGRAMS

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HOUSING FOR NATIVE AMERICANS: REVIEW OF FEDERAL PROGRAMS, BARRIERS, AND OPPORTUNITIES

THURSDAY, MAY 27, 2021

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SUBCOMMITTEE ON HOUSING, TRANSPORTATION, AND
COMMUNITY DEVELOPMENT,
Washington, DC.

The Subcommittee met at 10 a.m., via Webex, Hon. Tina Smith,
Chair of the Subcommittee, presiding.

OPENING STATEMENT OF CHAIR TINA SMITH

Chair SMITH. Today's hearing of the Subcommittee on Housing, Transportation, and Community Development will come to order. The hearing will be in virtual format.

This is my first hearing as Chair of this Subcommittee, and I am so glad to be joined by Ranking Member Rounds from South Dakota. Senator Rounds and I have worked together on Native housing issues for several years, and when we started talking earlier this year about our shared interest in this Subcommittee, Native housing issues immediately came to mind as a topic for both of us. So I am looking forward to working with Senator Rounds on this Subcommittee, this Congress, as we examine a number of important housing, transportation, and community development issues.

We are joined today by a panel of witnesses who will share their work to address housing insecurity in Native communities and their experiences with Federal Indian housing programs, and this topic is personal to me.

Minnesota is home to 11 sovereign Tribal Nations and large indigenous populations in the Twin Cities, Duluth, and Bemidji, and I have had the great privilege of visiting and meeting with tribal leaders from Minnesota to hear firsthand what they see as challenges and opportunities in their communities.

In 2019, I held a statewide listening tour on housing issues, and as part of that tour, we held four tribal-specific sessions. A constant, consistent message that I heard across all four listening sessions with Native leaders was the need for more supportive housing and culturally specific programming, particularly to support Native people experiencing homelessness.

Current and historical trauma amongst Native Americans contributes to the disproportionately high prevalence of homelessness amongst these communities. And they told me that without cul-

turally specific programming and trauma-informed care, this will not work.

Native people experiencing homelessness struggle to access services, of course, and to maintain housing stability. It is a difficult challenge, and tribal leaders are using scarce resources to try to address the complicated challenges of overcrowded homes, cost-burdened renters, and low home ownership rates on tribal lands.

Consider that in Minnesota 49 percent of Native households own their own homes compared to 76 percent of White households. Nationally, this home ownership disparity exists as well, with about 51 percent of Native households owning a home compared to about 73 percent of White households.

Home ownership requires access to credit, but in 2019 lenders in Minnesota denied almost 25 percent of Native American mortgage applications. By contrast, lenders denied only 6 percent of White applicants.

Inequities in mortgage lending are only one factor contributing to disparities in home ownership. We also know that legal barriers to lending on trust land, the lack of intergenerational wealth, and underinvestment in Federal Indian housing programs is also an issue.

In this hearing, we have a platform to elevate the voices of those struggling with housing insecurity and those working to combat it in communities from Fond du Lac, Minnesota, to the Pine Ridge Reservation in South Dakota, to Montana, Nevada, and all over the country.

The last time the Banking, Housing, and Urban Affairs Committee held a hearing dedicated to these issues was during the 112th Congress when fewer than half of the Members of this Subcommittee were even Members of the Senate. I am hopeful that today presents an opportunity for this Committee to rededicate ourselves to meeting the treaty and moral obligations of our Nation when it comes to ensuring that Native Americans have access to safe, affordable, and stable housing.

We have a once-in-a-generation moment to address the deep systemic barriers to housing in Indian country, and I hope that you all will join me in this effort. Together, we can help Native families across the country secure, safe, stable, and affordable housing, and we can finally give tribes the resources that they need, resources they are already owed, so that we can find solutions that work in the community. It is on us to prove to Tribal Nations that the Federal Government is ready to live up to its commitments and to play a role in reducing homelessness, providing housing assistance, and reducing disparities in home ownership.

Before I turn to Senator Rounds, I would just like to say a brief word about how I view the work of this Subcommittee. Housing and transportation issues we know touch the lives of every single American. If you do not have a safe, affordable place to live, nothing else in your life works. It is nearly impossible to focus on your education, your job, or your family if you do not have a good, stable place to live. And if you cannot get where you need to go safely, affordably, and reliably, it is pretty hard for anything else in your life to work either.

Right now, too many families are struggling to find affordable housing and to get access to transportation, especially families of color and Native people. This has happened for a range of reasons: the history of unfair and inequitable Federal housing policies, lack of funding and a lack of understanding, sometimes just a lack of attention. So I intend to use this Subcommittee to examine these issues and to do all that we can to make sure that housing and transit policies work for all families. I cannot wait to roll up my sleeves and to get to work, and I look forward to hearing from our witnesses today and from the Members of this Subcommittee.

And now I will turn to Senator Rounds for his opening statement.

OPENING STATEMENT OF SENATOR MIKE ROUNDS

Senator ROUNDS. Thank you, Madam Chair, and thank you to our witnesses for taking the time to attend today's hearing. I look forward to hearing from all of you.

Let me just begin, though, by thanking the Chair. Senator Smith and I are not only working on housing issues, we are working on a number of our rural areas, and sometimes that is not something that we talk about with regard to items that make news and the headlines or anything. But there are a lot of us that try to work across the lines back and forth, and in the Senate it requires bipartisan support for any type of activity to move forward. Senator Smith and I are working on ag issues; we are working on water development issues, rural economic issues. And as the Chairwoman has said, this is an area that we both agree is a place where we really can make a difference in our home States and for rural parts of our country.

Today this Committee will examine an issue of great importance to me and to so many in my home State of South Dakota and one that this Committee has not held a hearing on in nearly 10 years. That issue is providing safe, affordable, and stable housing for Native American communities throughout the United States. I hope this is one of multiple opportunities that we will have to address this matter this Congress and work together across the aisle on solutions to the policy challenges in this area.

This issue not only impacts the lives of thousands of South Dakotans, but also millions more of our tribal members across the United States. In South Dakota, we have nine federally recognized tribes, each of which faces various and unique tribal housing concerns. One of these tribes is represented here today, and I would like to introduce Mr. Eric Sheperd from the Sisseton Wahpeton Oyate in South Dakota. Eric, thank you for being with us today. You might want to just wave at everybody, Eric.

Recent data shows that housing conditions for Native American households are substantially worse than U.S. households. In fact, Native Americans have some of the greatest housing needs in the United States. That is according to the National Low Income Housing Coalition, the reasons for this being they face overcrowding, high poverty rates, lack of plumbing, inadequate heating, and other severe infrastructure issues. And that is if they are even able to access housing options at all. This is a serious problem, and now is the time to fix it.

In addition, there are other fundamental challenges that make home ownership more difficult for Native Americans. The complicated legal nature of Tribal Trust Land can make it exponentially more difficult to lend and borrow on land in Indian country. While legislation that Senator Smith and I partnered on in the past has resulted in a number of complications, but there is clearly more work to do.

The FDIC also reports that Native American and Alaskan Native American individuals are unbanked at triple the average of other Americans. Not having access to financial services makes owning and even renting a home all that much more difficult.

I hope today's hearing will also shed light into how housing challenges are exacerbated by other legal and economic issues.

Even before the COVID-19 pandemic, Native American housing programs already in existence have failed to adequately serve the needs of our poorest tribal communities, especially in more rural areas across the country. It is my hope that Congress can also make progress this year on reauthorization of the Native American Housing Assistance and Self-Determination Act, or NAHASDA, and I look forward to hearing our witnesses' thoughts on reauthorizations, reforms, and alternative funding options for Native housing in light of the recent pandemic.

These past few months, the COVID-19 pandemic has pushed more Native Americans living on reservations to seek home ownership, but longstanding barriers continue to prevent this. That is why I partnered together once again with Senator Smith on two pieces of legislation, including the Native American Housing Affordability Act and legislation reforming the Native American Direct Lending Program, both of which I am looking forward to discussing today.

For years, Congress and tribal leaders have worked to address these Native American housing issues. There has been a range of different approaches and challenges, and we seem to have fallen short along the way. While these issues are complex and compounded when put into rural settings, there is no excuse for the situation which so many of our tribal members face every single day just by being or wanting to be at home. It is time that we make a concerted effort of stakeholders and in consultation with our tribal members to develop solutions that meet the needs of our States' growing tribal communities.

Again, we welcome all of you here today and look forward to hearing your testimony about this very important issue, and I thank you for attending and participating.

Thank you, Madam Chair.

Chair SMITH. Thank you so much, Senator Rounds.

I am now going to introduce our witnesses. I will introduce all five witnesses and then turn to each of you to make your opening statements.

We have with us today Dante Desiderio, the chief executive officer of the National Congress of American Indians; Adrian Stevens, the acting board chair of the National American Indian Housing Council, and also the executive director of the Seneca Nation Housing Authority and a member of the Seneca Nation; Alene Tchourumoff, the Senior Vice President for Community Develop-

ment and the Center for Indian Country Development at the Monetary policy Federal Reserve Bank; Michael Goze, the chief executive officers of the American Indian Community Development Corporation in Minneapolis, Minnesota, and also the chair of the Board of Commissioners at the Ho-Chunk Housing and Community Development Agency, and a member of the Ho-Chunk Nation. Greetings to my fellow Minnesotans. And, also, Eric Sheperd, the executive director of the Sisseton-Wahpeton Housing Authority in Sisseton, South Dakota. Eric is also a member of the Sisseton Wahpeton Oyate community.

Welcome, and I thank all of you for your willingness to speak with us today, and I look forward to hearing from each of you. Before you begin your opening statements, just a few reminders. Once you start speaking, there will be a slight delay before you are displayed on the screen. To minimize background noise, please click the mute button until it is your turn to speak or ask questions.

You should all have on your screens a box labeled "Clock" that will show you how much time you have remaining. And for witnesses, I ask you to please keep your opening statements to about 5 minutes. You will have the opportunity to have your full written statements submitted as part of the record.

For all Senators, the 5-minute clock applies to your questions also. When you have 30 seconds remaining for your statements or questions, you will hear a bell ring to remind you that your time has almost expired, and it will ring again when your time has expired.

And if there is a technology issue, we will just move to the next witness or Senator until that technology issue is resolved.

And to simplify the speaking order, Senator Rounds and I have agreed to go by seniority in this hearing.

I will now turn to Mr. Desiderio for your opening statement.

STATEMENT OF DANTE DESIDERIO, CHIEF EXECUTIVE OFFICER, NATIONAL CONGRESS OF AMERICAN INDIANS, WASHINGTON, DC

Mr. DESIDERIO. Thank you, Senator, and good morning, Chairwoman Smith and Ranking Member Rounds and Members of the Subcommittee on Housing, Transportation, and Community Development. This is quite an honor to be present in the Senate Banking Committee. On behalf of the National Congress of American Indians, as the chief executive officer, I am Dante Desiderio, a member of the Sappony Tribe, and we represent the largest and oldest organization comprised of sovereign Tribal Nations and their citizens.

So Tribal Nations across the country aim to maintain housing infrastructure that improves their citizens' health outcomes, sustains their regional economies, and, importantly, addresses the growing population with our tribes. And I do want to just comment for a second on the idea, Chairwoman Smith, of taking a listening tour in Indian country. It is the best way to learn about Indian country. And, Senator Rounds, I agree that now is the time to fix it.

For decades, the Federal Government has recognized that its trust responsibility to Tribal Nations to provide adequate housing has been chronically underfunded. And as a result, our tribal communities see overcrowded homes at a rate roughly eight times the

national average, and over 70 percent of our existing housing requires extensive upgrades and repairs.

In 2017, HUD reported that it will take approximately 68,000 new units to alleviate overcrowding and replace those in grave condition. These disparities increase the vulnerability of American Indians and Alaska Natives to the COVID-19 and resulted in our communities having at times the highest infection, hospitalization, and death rates per capita in the United States.

Today my testimony will focus on impediments and barriers facing Tribal Nations and tribally designated housing entities when attempting to build and finance housing. Then I will turn to recommendations that will allow for construction and financing of housing on tribal lands.

First, I want to address the challenges and barriers of lending on trust lands and the burdensome permitting process. In 2019, the FDIC found that 16 percent of tribal households were unbanked compared to only 5 percent of the general population.

The unique status of trust lands and the lack of education of most private lenders makes them reluctant to lend to either individual Natives, Tribal Nations, and tribally designated housing entities. Further exacerbating this issue, the BIA must review all trust land leases and provide verification of ownership, which can be delayed for months.

Second, there is a lack of access to housing tax credits for multifamily housing units in Indian country. These tax credits are only provided to State governments, who in turn have the ability to offer those to Tribal Nations, but often do not; or if they do, it is sporadic.

And, third, while construction costs and inflation continue to rise, flat Federal funding on Indian housing programs results in a sharp decrease in the amount of affordable housing units.

Finally, while identifying barriers is helpful in understanding challenges, it does not always offer a pathway forward for creating policy solutions. So I want to offer a few solutions.

One, Congress should increase the access to the Low-Income Housing Tax Credit Program and provide tax credits at a proportionate rate for tribal governments.

Second, Congress should support finalizing the implementation of the most recent CRA proposed rules and encourage other banking oversight entities to adopt similar rules.

Third, Congress should create a \$50 million tribal allocation from the USDA 502 Direct Lending Program to get capital into Indian country and expand the test program that was done in South Dakota.

And, last, while outside the jurisdiction of this Committee, Congress should reauthorize the NAHASDA and fully fund NAHASDA. NAHASDA would authorize two important home loan programs: the Title VI Loan Guarantee Program and the Section 184 Loan Guarantee Program. And when drafting this legislation, the National Congress of American Indians urges Congress to establish an Assistant Secretary for Indian Housing at Housing and Urban Development that would streamline environmental rules, allow tribal housing programs to access IHS sanitation funding. And Congress should also permanently authorize tribal HUD Veterans Assistance

Program to ensure all Native veterans receive the benefits they deserve.

And just in conclusion, if Congress does not act, existing tribal housing will continue to deteriorate, and tribes will be left vulnerable, as they have been in this—as we have all seen during the COVID-19 pandemic.

Thank you so much for allowing me to testify.

Chair SMITH. Thank you so much.

And we will now turn to Mr. Stevens.

STATEMENT OF ADRIAN STEVENS, ACTING CHAIRMAN OF THE BOARD OF DIRECTORS, NATIONAL AMERICAN INDIAN HOUSING COUNCIL; EXECUTIVE DIRECTOR, SENECA NATION HOUSING AUTHORITY, AND MEMBER, SENECA NATION, IRVING, NEW YORK

Mr. STEVENS. Good morning. My name is Adrian Stevens, and I am the Acting Chair of the Board of Directors of the National American Indian Housing Council. I am a member of the Seneca Nation in New York, and I currently serve as the executive director of the Seneca Nation Housing Authority. I appreciate the opportunity to testify before the Senate Banking Subcommittee today to discuss tribal housing. I would like to thank Chairwoman Smith, Ranking Member Rounds, and Committee Members for having this hearing. In addition to the comments I will make today, I have submitted a formal written statement for the record.

The Committee asked us to describe the state of housing in Indian country. Unfortunately, the answer is that unmet housing needs in our tribal community are great and they are persistent. There is a longstanding housing shortage across Indian country due to years of stagnant investment. Tribal housing programs rely on Federal funding through NAHASDA, which established the Indian Housing Block Grant for tribes 25 years ago. Funding for NAHASDA programs has been flat for nearly 20 years, providing tribes only two-thirds the purchasing power today that NAHASDA funds provided in the 1990s.

We are asking tribes to do a lot with their housing dollars each year. Tribes are tasked with managing existing housing stock that has been developed over decades, and now it is often aging and needing constant repairs. Tribes also provide low-income rental assistance, provide student housing, housing and supportive services for elders and veterans, housing counseling services for future homeowners, and we expect them to build new housing units each year.

Tribes are expected to carry out all these services when nearly 400 of the Indian Housing Block Grant recipients receive less than \$500,000 a year to do so and 175 tribal communities receive less than \$100,000 a year for their housing programs.

To be clear, NAHASDA has been successful. It has provided tribes dedicated and consistent funding each year, enabling tribal housing programs to improve their capacity and the ability to improve their communities. Tribal housing programs have never been capable to provide housing services to the communities as they do through NAHASDA. When we fall short, there is a lack of investment to spur new housing development in Indian country.

In the first decade of NAHASDA, tribes were building well over 2,000 units a year across the country, more than had been built annually before NAHASDA was enacted. New construction has significantly decreased, however, as funding diminishes with inflation each year. Currently, tribes are building or purchasing roughly 1,000 units a year while a 2017 HUD report said 68,000 units are needed to address overcrowded homes and substandard housing in tribal communities. Unless we change how we invest in housing development in Indian country, tribes will not catch up.

Prior to NAHASDA, tribes were piecing their housing programs together with various grants and funding sources. Despite the original promise of the block grant, tribes are again today piecing their housing programs together. Tribes are leveraging resources and programs from the U.S. Treasury, USDA, Veterans Affairs, nontribal HUD programs, and others. However, as tribes put these pieces together, they are often confronted with a multitude of different eligibility requirements, environmental reviews, and program rules. As project planning becomes more complex due to leveraging multiple funding sources, tribes must weigh each project's impact to determine the best use of their staff's time and bandwidth.

So what can we do? And what can Congress do? First and foremost, we need to reauthorize and properly fund NAHASDA programs. NAHASDA provides the greatest flexibility for tribes to meet the unique housing needs of their communities, and when properly funded, we see unit development across Indian country. We have to encourage commercial lending and investment through direct tax credits and incentives. Too often private banks and lenders avoid tribal communities because the perception is there that projects are too complex, or they do not provide the same efficient return on investment that a similar project in a nontribal area would provide. We have to improve administration of trust land and how delays in simple trust land documentation deter banks and Government lenders alike from prioritizing housing loans on trust lands. We have to demand that all Federal housing programs include tribal communities in both eligibility and implementation. The Low-Income Housing Tax Credit, USDA Rural Housing, Housing Trust Fund, and other programs all seem like ideal fits to solve tribal housing issues, yet those resources impact tribal communities sparingly across the country, if at all. We have seen promise in Federal and State programs that prioritize or incentivize tribal areas or create specific set-asides, and we see promise when a Federal program that is national in scope like the USDA Single Family Home Loan Program partners directly with tribal organizations or can implement their Federal programs directly in tribal communities.

In that USDA pilot program in South Dakota, we have seen Native CDFIs issue more USDA-backed home loans in two tribal communities in a single year than USDA was able to provide in the past decade. So let us do more of that. In short, we have to increase investments of dollars and effort from Congress, from Federal agencies, from tribes, from the private sector. We must recognize the rural nature in many communities. The small size of many tribal communities, the higher costs of project development in trib-

al communities, all factored together diminish the economies of scale that drive housing development, and we have to invest anyway because it is meeting our tribal communities where our families continue to face greater levels of overcrowded and substandard homes and lack of affordable housing options.

With that, I will end my statement, and I look forward to answering any questions you might have. Thank you again for your support in improving the housing opportunities for Native Americans, Alaska Natives, and Native Hawaiians across the United States.

Chair SMITH. Thank you very much.

I will turn now to Alene Tchourumoff.

STATEMENT OF ALENE TCHOURUMOFF, SENIOR VICE PRESIDENT, COMMUNITY DEVELOPMENT AND CENTER FOR INDIAN COUNTRY DEVELOPMENT, FEDERAL RESERVE BANK OF MINNEAPOLIS, MINNEAPOLIS, MINNESOTA

Ms. TCHOURUMOFF. Thank you, Chair Smith, Ranking Member Rounds, and Members of the Committee, for the opportunity to testify today. As the senior vice president of Community Development and Engagement at the Federal Reserve Bank of Minneapolis, I oversee the work of the Center for Indian Country Development. The CICD supports tribes through actionable research and community collaboration to further tribal economic prosperity. The Center also leverages our department's broader expertise on affordable housing, labor markets, and early childhood development.

I should add today that my views expressed here are not necessarily the views of the Federal Reserve Bank of Minneapolis or the Federal Reserve System.

Our work on housing involves applied research, community engagement, and constant attention to the economic literature in the field. Our work points to the harmful effects of the current state of housing for Native Americans, Alaska Natives, and other Indigenous populations. My comments and detailed written testimony focus on Indian country's specific housing challenges and opportunities demonstrated by Indian Country's leaders.

As you have already heard this morning, housing is often in short supply and substandard conditions in Indian Country. Homes are seven times more likely to be crowded and nearly four times more likely to lack complete plumbing. These conditions have been shown to harm family health and stability.

In 2017, HUD estimated that 68,000 units would be needed just to address these issues, which would likely cost tens of billions of dollars. We focus on five factors that reinforce these barriers.

First, Native nations are sovereign, but their land is held in trust and must have its title cleared by the U.S. Government. Mortgages on trust land are also leasehold mortgages as opposed to fee simple mortgages, and housing professionals and homebuyers frequently identify these realities as significant hurdles.

Second, Indian country homebuyers often face an uphill battle when working with lenders to finance their home. Our economists' work shows that Native American borrowers on tribal lands are more likely to receive high-cost loans, leaving them ultimately to pay more for their homes over the life of their mortgage.

Third, the tools designed to work in Indian country are often underutilized on trust land. This applies to Indian country-specific products like HUD's Section 184 program. It is also true of products whose features make them relevant in Indian country, like the USDA's Section 502 program.

The fourth reason relates to the Federal Government's failure to fulfill treaty obligations. Developments in Indian country often pay today for the resulting historical underinvestment in physical infrastructure. For example, poor access to water or transportation raises the overall cost of construction.

Fifth, Federal funding sources with different eligibility and process requirements complicate the preconstruction process in, and may not reflect the unique needs of Indian country. No quick fixes will radically improve things overnight, but plenty of innovations are showing promise for a brighter future and present potential avenues of involvement for Congress.

Our research and engagement suggest four recommendations.

First, the Federal Government should continue to expand financial capacity of Native community development financial institutions, CDFIs, and other tribal institutions. Native CDFIs offer community-grounded credit solutions in Indian Country. Our research suggests that the presence and activities of Native CDFIs increases the credit score of Indian Country residents that previously had the lowest credit scores. And the pilot that was just mentioned involving two native CDFIs and the USDA in South Dakota has shown the power of connecting community-based lenders and Federal lending resources.

Second, the Federal Government can create normalized and complementary interagency lending processes in Indian Country. We recommend that Federal agencies and Government-sponsored enterprises work with representatives from tribal governments, lenders, developers, and nonprofits to find solutions and provide guidance for housing in Indian Country.

Third, an improved title process on trust land would support housing development and tribal sovereignty. The Helping Expedite and Advance Responsible Tribal Home Ownership Act, also known as the HEARTH Act, of 2012 created a process for tribes to assume additional control of trust land management. Sufficient funding is not available through the HEARTH Act itself to fund the administrative capacity necessary for taking over trust land management from the BIA, and the cost is simply too high for many tribes.

Finally, data on Native Americans and Indian Country programs should be improved. With some exceptions, existing sources are often insufficient to assess policy impacts or changes in the population-level well-being. Illuminating economic conditions in Indian Country will require collaboration on methodologies and new financial resources to obtain sufficient statistical samples.

Congress has recently taken steps to support tribal sovereignty and access to important housing resources, and I hope our testimony today provides insight into how Federal policy can further support and accelerate Indian Country's upward momentum.

I would like to thank you again for the opportunity to share insights from the CICD's work.

Chair SMITH. Thank you very much.

I will turn now to Mr. Goze.

STATEMENT OF MICHAEL GOZE, CHIEF EXECUTIVE OFFICER, AMERICAN INDIAN COMMUNITY DEVELOPMENT CORPORATION (AICDC), MINNEAPOLIS, MINNESOTA; CHAIRMAN, BOARD OF COMMISSIONERS, HO-CHUNK HOUSING AND COMMUNITY DEVELOPMENT AGENCY (HHCDA), TOMAH, WISCONSIN; AND MEMBER, HO-CHUNK NATION OF WISCONSIN

Mr. GOZE. Good morning, Madam Chair, Senator Rounds, and Members of the Subcommittee. It is my honor to provide testimony to this Committee this morning.

In looking at the current situation regarding safe, standard, and affordable housing on tribal trust land or within rural or urban settings throughout our country, American Indians fall far short of the national average in the percentage of home ownership when compared to their White counterparts. There are several reasons for this disparity.

First, access to mortgage products that meet the specific needs of the American Indian population. The Section 184 Indian Home Loan Guarantee Program is a home mortgage product specifically designed for American Indian and Alaska Native families, Alaska villages, tribes, or tribally designated housing entities. Congress established this program in 1992 to facilitate home ownership and increase access to capital in American Indian communities. Although this mortgage product has had some impact, it has not equaled the playing field. The number of lending institutions that offer the Section 184 loan product are limited to a select few. I would suggest that the Section 184 or a like loan product would be better served if it was provided through the American Indian Community Development Financial Institutions, CDFIs, that are a great asset to Indian Country both on reservations and in the urban areas. The CDFIs provide a myriad of services all dedicated to the financial success of its clients.

The work of a CDFI in home ownership is providing homebuyer education, homebuyer counseling, credit repair, budgeting, responsibilities of home ownership, and other aspects of this sometimes daunting process. A large number of American Indian clients seeking home ownership are first-time homeowners looking to provide stability, enhancing the community stabilization making these services important to their individual success. I believe this relationship would benefit through the mortgage process. Currently their clients make applications for mortgages with other lending institutions. Sometimes these are online applications, and this can be a totally different experience than they have had in the past in working with the CDFI. To provide an opportunity for American Indian CDFIs to have a mortgage product like the Section 184 will complete the process and provide a greater level of success. American Indian CDFIs, given the opportunity, could provide a better level of service and gain the knowledge and financial benefits of the mortgage process, making this a win-win for both the client and the CDFI.

Second, affordability. Income levels within the Native American communities have a substantial effect on the home loan amount available to them. With today's housing prices, the availability of

homes are scarce in lower-price areas. Having a forgivable deferred loan product that will be reduced over time would be a great investment into the stabilization of American Indian families and communities. Having a safe, standard, and affordable home creates the foundation that promotes better outcomes in areas of education, health, and financial stability. Our homes can be the single greatest financial asset in one's life, making way for families to continue to thrive versus just survive in the current economic climate. By investing in our American Indian families via home ownership, we can create an immediate impact to the lives of our youth, elders, and adults. This type of investment creates immediate impact and also provides long-term impact in the stabilization of families.

Third, a land trust model. We have used the land trust model in Minneapolis to make home ownership more affordable. In Minneapolis, we have much success in this, and reducing the mortgage loan amount by having land owned through a land trust, this provides the ability to create the buying power of the homeowner by having the land held outside of the mortgage. It provides a monthly benefit to the homeowner in a reduced monthly payment. In a land trust model, the appreciation is shared by a predetermined amount should the property be sold. The land trust model can also be beneficial in continued housing affordability for the community by the reinvestment of the appreciation by the land trust.

Last, in today's times we need to use every financial opportunity to help American Indian families understand and relish in the benefits of home ownership. We need to use a number of initiatives to make home ownership possible. At AICDC we have used city, county, and State funding options, including grants, deferred loans, and other home ownership initiatives, and this has made—we look forward to our Federal partners in providing opportunities to increase home ownership to American Indian families throughout the country.

I thank you for your attention to this matter.

Chair SMITH. Thank you very much.

And we will now turn to Mr. Sheperd.

STATEMENT OF ERIC SHEPHERD, EXECUTIVE DIRECTOR, SISSETON-WAHPETON HOUSING AUTHORITY, SISSETON, SOUTH DAKOTA; AND MEMBER, SISSETON WAHPETON OYATE

Mr. SHEPERD. I would like to thank Madam Chair Smith for the opportunity to speak, Vice Chairman Toomey, Senator Rounds, and other Members of the Subcommittee, for this opportunity to talk about Indian housing today.

It has been an especially hard and challenging 15 months for those of us on the Sisseton-Wahpeton Reservation in South Dakota. We were hit hard early with the COVID pandemic at home, and we are still working on recovery today. Housing has been at the forefront of the recovery efforts, providing a safe place for our members to shelter and recover and managing the many new relief programs that you in Congress have provided to us.

A large part of our recovery effort at Sisseton-Wahpeton involves looking past the pandemic and into the long-term status of Indian housing programs, both on our reservation and in the United

States as a whole. The perennially inadequate funding and other program issues that existed prior to 2020 must now be addressed to assure the long-term sustainability of Indian housing for the first Americans. To put it more plainly, we all must understand something is wrong when the base level appropriation for the Native American Housing Assistance and Self-Determination Act, NAHASDA, has not been increased since the law was originally passed 25 years ago. As Congress and the new Biden administration focuses on helping America rebuild its dilapidated infrastructure and recalibrate its housing assistance programs, Indian Country and Indian housing must also be given fair consideration.

I know the Subcommittee has a particular interest in the HUD Section 184 program operating in Indian Country. I can tell you that the 184 program has had limited impact on reservation lands held in trust by the United States. While a few individuals have been able to secure leasehold mortgages under the program, most of the funds go to off-reservation lands and urban areas where banks and lenders are more comfortable with providing traditional mortgages. The situation has not been helped with HUD's recent revision or the program regulations that send the program back in time before the 184 Act was passed in 1992—requiring underwriting provisions and fees that are not affordable or helpful to developing new housing on reservation lands.

I would like to call the Subcommittee's attention to a number of other important issues that Congress should address regarding Indian housing programs:

We appreciate the emergency funds received to date and need to receive a fair share of the new housing infrastructure funds as well. The CARES Act, the Consolidated Appropriations Act of 2021, and the American Rescue Plan have all included much needed emergency funds to support Indian housing operations during the pandemic. We do appreciate that Congress has allocated money to alleviate the short-term effects of the COVID-19 pandemic. We can confirm that this money had an immediate and vital impact on preserving and protecting housing services and resources in our tribal communities. Our proposal is to now address the more long-term and sustainable solutions to improving Indian housing. The recently proposed American Jobs Plan includes \$231 billion to improve and produce more housing and housing infrastructure, including a proposed amount of at least \$50 billion to renovate and rehabilitate federally assisted housing. We are asking you to help ensure that, if new infrastructure legislation is passed, Indian housing continues to get its fair share of the funding. A 5-percent set-aside for Indian housing would be \$2.5 billion. As you are aware, Federal programs have long neglected Indian Country's need to maintain and improve its aging housing stock.

Housing needs in tribal areas remain the most severe in the Nation, and resources to address the problem have declined more rapidly than for other Federal housing programs.

Tens of thousands of new units are needed. Thousands of existing units, some of which are currently boarded up because of lack of funding and severe methamphetamine contamination, are also in need of substantial rehabilitation. The simple fact is that \$2.5 billion of additional new funding is needed if these conditions are

going to be effectively addressed. Tribes and their TDHEs have the capacity to build and rehabilitate their housing. Most observers know and most studies show, including the recent “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”, by HUD PD&R and the Urban Institute, January 2017, the “Report,” that TDHEs have or, if needed, can quickly reacquire the capacity to build housing and other related infrastructure construction on this scale. TDHEs are prepared to quickly gear up to produce a substantial number of new units. This will help tribes and Alaska villages generate for their communities and the country postpandemic economic recovery—just as they did successfully 10 years ago after the Great Recession with American Recovery and Reinvestment Act—ARRA—monies.

Thank you for this time to testify.

Chair SMITH. Thank you very much to all of our panelists.

We will now begin a round of 5-minute questions from Senators, and I will start actually right, I think, where Mr. Sheperd was leaving off, which is the unique challenge that we have with housing on tribal lands, which is that properties are far more likely to have really significant, severe physical defects than the rest of the United States housing stock all in. In fact, on tribal lands, plumbing is deficient at a rate five times higher than the national average, and homes on tribal lands lack heating at a rate of more than 100 times the national average.

So let me maybe turn to Mr. Desiderio and Mr. Stevens, and you could just talk about why you think these physical challenges are so much pervasive in tribal housing. Then let us know, is this primarily a funding issue or are there other things that we need to be doing in order to address this deep challenge?

Mr. DESIDERIO. Well, I want to go back in time a little bit to address this. There is this idea that, you know, tribes have been placed on marginal lands. They have a limited land base, and the housing stock has not kept up with the demand. So when you are looking at building on limited land base and limited access to water and other infrastructure, the issues that you are mentioning tend to be more significant. It is an issue of funding, and I am glad we are having this conversation around housing during a national conversation of what is infrastructure. And this is not an isolated issue, so as we are talking about infrastructure, we really need to talk about the infrastructure needs that support housing, which is what you are getting at in your question.

If the housing stock is not keeping up with the demand and we have the highest number of family members per household, it stresses the existing housing stock, and then the limitations on funding of, you know, the water infrastructure, which has gone down, and then also looking at our lands are not included in the Water Resources Conservation Act, which provides USDA with that type of planning authority.

So there are a number of issues that go into this, but mostly on the marginal lands and the lack of ability to address the larger and really expensive infrastructure issues that go into forming a really holistic community or holistic housing stock.

Chair SMITH. Thank you. So we should be thinking about this clearly in the context of this larger infrastructure conversation we are having.

Mr. Stevens, would you like to add anything to that?

Mr. STEVENS. I think Dante hit it right on the knot there, really talking about the infrastructure issues and lack of funding. So rather than repeat what he said, he has pretty much stated what—answering your question. But, again, you know, the homes that we have on reservation are really one of the issues that we have, you know, in finally being able to replace the older homes that we do have, and I think it is having that availability of funding available.

Chair SMITH. Right, right.

So let me turn to Mr. Goze. Mike, in the recovery from the coronavirus crisis, the community development CDFIs have played a really important role in providing financing to folks that have been overlooked by—or, you know, unable to get access to financing. Could you just talk to us about what we need to do to help CDFIs support home ownership for indigenous people and, you know, what you have seen that is most effective in accomplishing this goal from the perspective of CDFIs?

Mr. GOZE. AICDC created a community-level loan fund that actually is marked into the Minneapolis fund, which is the CDFI. It is a new CDFI. They chose not to enter into the PPP arena because of their size. But I see the CDFIs as being the most integral part of home ownership, especially in the urban areas and on the reservation areas, serving both in the urban area and working with the Ho-Chunk Community Development Agency in Wisconsin. I see the advantage of the CDFIs both in the urban area and on the reservation in rural areas. And so I believe by supporting them with providing more products that they can use to reach their clients and tribal members would be advantageous both in home ownership and actually all lending opportunities which we see the Native American being unbanked and not being able to access some of the financial needs that they might have.

Chair SMITH. Thank you. Thank you so much.

Mr. Stevens, I am very interested in the USDA 502 loan pilot program in South Dakota. I expect that Senator Rounds will ask about that, but if he does not, I will return to that.

Senator Rounds.

Senator ROUNDS. Thank you, Madam Chair. Well, I most certainly appreciate the fact that we are having this hearing today, and there seems to be a whole series of topics here that our panelists have already delved into. But let me just begin with this, and I would like to direct this first one to Mr. Sheperd.

Although it does not fall squarely within the jurisdiction of the Banking Committee, I hope that Congress can make progress this year on the reauthorization of the Native American Housing Assistance and Self-Determination Act, or NAHASDA. NAHASDA is a very broad piece of legislation, but I was hoping to learn more about some of the priorities your organizations and tribes have identified for a reauthorization package. And, Mr. Sheperd, I know you have an interest in this, and that is the reason why I will direct it to you first. What are some of the key priorities that the

Sisseton Wahpeton Oyate is hoping to see when NAHASDA is reauthorized?

Mr. SHEPERD. Thank you, Senator Rounds. In several other contexts, when tribes need approval from an agency, Congress has authorized the “deemed approved” approach to move the decision point past the agency, and if the agency takes too long to act, we do support this kind of approach in the context of HUD decision-making under NAHASDA. NAHASDA expired in 2013 and has not been reauthorized since, despite efforts in every session to do so. Obstacles to development of affordable housing are the lack of improvements to the low-income housing areas. I think it is time. You know, I think we need to change our mission there. We have been going 25 years now, Senator. You know, we have had multiple consultations with tribes coming to D.C., and maybe it is more than once a year. You know, we are getting past the pandemic now, and maybe it is time—it is time. Let us leave it at that. It is time to reauthorize NAHASDA.

Senator ROUNDS. Thank you. I was thinking about this also, and I am going to direct my next question to Mr. Desiderio. An article from the *Billings Gazette* recently referred to Federal assistance for Indian Country as the “Marshall Plan for Indian Country”. It pointed out the American Rescue Plan dedicated \$36 billion to federally recognized tribes this year on top of \$8 billion from CARES. Given the scope of challenges when it comes to housing, I really hope that this money is being directed and that you are seeing it on the ground there.

Can you tell us more about the effectiveness of how those funds are being transmitted through the bureaucracy and whether or not it seems to be any effectiveness with regard to the Federal assistance during the COVID-19 when it comes to housing specifically?

Mr. DESIDERIO. Thank you for that, Senator. So the experience for tribes on the discretionary funds from the CARES Act should be separated a little bit from the American Rescue Plan. The CARES Act through the Department of Treasury had limitations on the use of the funds. So infrastructure was relatively limited for tribes to be able to pursue.

The subsequent legislation opened up housing, had housing vouchers, and then in this latest round, the American Rescue Plan, infrastructure was included, but it was not housing. So we are able to address some of the water issues and sanitation issues with the Rescue Act funding and get to some of the housing vouchers and housing assistance through some of the other legislation. So it is all incredibly helpful, and I think it serves as a model for putting out discretionary money, but the other side of that is opening the options for tribes to be able to address the dramatic infrastructure needs that have come out during this pandemic and really showcased what deficiency in infrastructure—what are those real impacts.

And so the Marshall Plan idea is great, and the discretionary funding is great, and we are looking forward to addressing some of the infrastructure needs. But we are also looking forward to further support through infrastructure funding to be able to open that discretionary funding up or the programmatic funding up to address all of these needs. I think that tying hands on discretionary

money may not be the best use for addressing our needs on the ground that we all know firsthand in our communities.

Senator ROUNDS. Thank you. Let me just follow up, and I do want to follow up on Senator Smith's comments concerning the 502 Direct Lending Program. And I know that we have got a pilot project working on it. I know there is more that we could do to help these programs function appropriately.

To Mr. Stevens, do you have any thoughts on how to improve and to build on the 502 program? Have we learned anything so far?

Mr. SHEPERD. I really have not had any issues or really any type of development with the 502 program here at Seneca. Again, you know, looking at that, I think really the openness of the regulations that you need to follow to go through that program are limited to what we try to do here on tribal lands. You know, it is tough. They opened that up, but it is very low—there is very little usage of that funding available there. It is limited. So I think we can open it up and look at more consultation on how to utilize those funds a lot easier for tribes to be able to provide the housing needs of our communities.

Senator ROUNDS. OK. Well, thank you. My time has expired, but perhaps we can explore that a little bit more later on here.

Thank you, Madam Chair.

Chair SMITH. Thank you very much.

Senator Cortez Masto.

Senator CORTEZ MASTO. Thank you, Madam Chair. Thank you to this panel. This is a great discussion. I am very proud I get to represent 27 tribal communities in the State of Nevada.

Let me start with the Federal Home Loan Bank investments. There are 11 Government-sponsored enterprises that we know as the Federal Home Loan Banks, and they are required to meet the affordable housing and community development needs of the communities of the States that they serve.

So my question to the panel members: How many tribes to your knowledge have received investments from the Federal Home Loan Bank programs like the Community Investment Program or the Community Investment Cash Advance or the Affordable Housing Program? I am curious to know the data here. And maybe Mister—is it "Desiderio"?

Mr. DESIDERIO. Right.

Senator CORTEZ MASTO. If we could start with you, are you familiar with any of this money from Federal Home Loan Banks going to any tribal communities for housing?

Mr. DESIDERIO. Thank you for asking that, and just to point out, the Federal Home Loan Bank has reached out to get Native representation from Senator Smith's home State. Chief Benjamin from the Mille Lacs Band of Ojibwe is going to be serving on that board, and they have had limited outreach as well to a CDFI technical organization. But, in general, I do not know if I can answer the question on how many, but it really has been very limited outreach.

If you look at the potential of the Federal Home Loan Bank, they have two different areas: one is on being able to reassure—provide liquidity to banks. There are a lot of Native American banks that could benefit from that. But on the other side of it, if you look at their plans and their limited plans, they are not addressing the

real needs of Indian Country. Just meeting with the CDFI technical adviser is not enough, and it does not go to the understanding of tribal issues and the capital needs that tribes are faced with.

Senator Rounds' bringing up the 502 program is a great example of the creativity of a program to be able to adjust to a member's income and lower the interest rate. It is also the ability to get direct funding for relending into communities. So all these things are possible, and they should serve as a model for the capital markets and not as a substitute. And I think that is really important. So the Federal Home Loan Bank in providing some of the priorities for the bank, their plans for the bank, you know, in being able to address Indian Country needs, it has not acted in that direction. And the other thing that they can do is they have a lot of grants that could go out to tribal communities, but they are going out to serve housing needs in the same way and not really using the tribal governments and their role in providing housing to their citizens.

So \$700 or \$800 million in grant funding is not finding its way to reassure the capital markets or bring housing into Native communities.

Senator CORTEZ MASTO. Thank you. And is it fair to say the only reason that they recently reached out is because Senator Smith has been engaged, but that is just—but prior to that they had not reached out to you?

Mr. DESIDERIO. I think it is fair to say that, yes, they have not been actively reaching out until recently, yes.

Senator CORTEZ MASTO. Yes, and that is what I am finding as well as I engage in my region. The reason I bring it up, because this is such an important issue, and so one of the areas that I am focused on—and just for my colleagues, in 2019, there was a report on the low-income housing and community development activities of the Federal Home Loan Banks. There was only one reference to investment in tribes. Only the Des Moines Bank offered a program, a Native American Homeownership Initiative. I know—and this is the reason I am bringing it up—because we all feel the same way that we have got to do a better job here. So because of this I recently introduced legislation, S. 1684. It is the Federal Home Loans Banks' Mission Implementation Act, which would strengthen the ability of the banks to invest in communities, and my bill includes a 2-percent set-aside for tribes. This is an area that we have got a great opportunity to focus on, and I look forward to more conversations on this issue.

Thank you for this great hearing.

Chair SMITH. Thank you so much, Senator Cortez Masto.

Now, there is Senator Lummis. I will next turn to Senator Lummis. Welcome.

Senator LUMMIS. Thank you so much, Madam Chairman and Senator Rounds, for holding this hearing. I am going to focus my questions on the economically disadvantaged Native Americans. In my State, that includes a substantial number of the members of the Eastern Shoshone and Northern Arapaho tribes in Wyoming on the Wind River Reservation and also, as you know, Senator Rounds, the Oglala Lakota at Pine Ridge. There are issues that relate to housing that really do affect their financial and personal

well-being, and I want to start with some questions about how the census may have inaccurately counted, because it is so difficult, the number of Native Americans and how many are living in each household. You know, if you have a Native American household where there are multiple generations, there are extra workers, they are trying to keep everybody housed, perhaps in housing that is smaller than would normally be considered in the United States adequate for that many people, then the census comes along, and maybe they are reluctant to discuss how many people are living in their household.

So question number one, and I think this is for Mr. Desiderio and Ms. Tchourumoff: Is the census an issue? And is it contributing to undercounts?

Mr. DESIDERIO. I just want to categorically say yes to that question. The idea that tribal communities are consistently undercounted in the census is pretty significant for the amount of funding that goes out to tribes. The reluctance, you know, for tribal citizens to contribute to the census has always been an issue, and then this past census is going to have a severe impact on that because of the pandemic and because of the idea that a lot of tribes are in rural and remote areas, and this information, you know, needs face-to-face, and that has not been done as adequately in the last census. So, yes, it is an important issue, the reluctance, and the higher households, it is important that we get an accurate count, and I am not sure we are doing that at this point.

Ms. TCHOURUMOFF. Thank you, Senator. I would also offer—I would agree with what Mr. Desiderio has just said. I think Native Americans are at risk of being under- or miscounted, I think for two important reasons.

First, the American Community Survey, which provides annually updated data about reservations and communities across the country does not include information about tribal enrollment, and so it can make it difficult to understand how housing challenges might vary across tribes and renders the ACS less useful for program implementation than it could otherwise be. And it means that the population measured in the census data is not actually directly comparable to population measured in a tribal census, for example.

The second challenge is, as Dante was just mentioning, that Native Americans are vulnerable to undercounting in the decennial census and, obviously, by extension the ACS, and that is driven in part by, you know, the higher likelihood of renting, lack of infrastructure, potentially phones, maybe issues with trust in the Federal Government, access to broadband, things like that. So the U.S. Census Bureau estimates that the undercount in the 2010 census of American Indians and Alaska Natives was about 4.9 percent, which is substantially higher than Black Americans at 2.1 percent or Hispanics at 1.5 percent comparing across different groups of people. So it is a very, I think, important question.

Senator LUMMIS. Thank you. And if you have some thoughts about concrete steps we could take to address this, I would love to have you submit them in writing. And that is to any of our witnesses.

I have a question for Mr. Sheperd. Data is showing that calls to 911 around the most economically disadvantaged Native American

areas come from Native Americans that do not have reliable housing. So is it reasonable to assume that we can reduce some of the strain on our local public safety agencies by improving Native American housing?

Mr. SHEPERD. Of course. That takes me back to the reauthorization of NAHASDA also. We also want to recommend, if the opportunity arises, that NAHASDA be reauthorized. Such formal reauthorization is long overdue. And if this should happen, we continue to join with most other tribes, TDHEs, and national and regional Native housing associations to advocate that the reauthorization modify the existing NAHASDA 30-percent rental payment rule. If the country fails now to address the plight of Indian housing, it would be disastrous to tribes and Alaska Native communities and to those hundreds of thousands of Native people and families who suffer so greatly with overcrowded and severely substandard housing.

Senator LUMMIS. Yes, well, it sure was a big issue in Wyoming during COVID, and so we have learned a lot, all of us, during COVID about some of the soft underbelly of our supply chains, and certainly on our reservations, housing was a big issue. There was an incident—I will tell you about it—on the Wind River Reservation where an indigent Native American person was exhibiting symptoms of COVID, but he was in a park in a city, and they had to take him to the Indian Health Service in the back of a pickup because there were inadequate medical service providers, an ambulance that was subject to sterilization from COVID. We learned so much during COVID, and this is yet another area where we have got a lot of work to do.

So, Mr. Ranking Member and Madam Chairman, I want to thank you once again for holding this hearing. Thank you very much to our witnesses. I yield back.

Chair SMITH. Thank you so much, Senator Lummis.

I think we have time for another round of questions if Senator Rounds would like to ask anything more. I would like to, and anybody else who is here. And I know that Senator Tester and Senator Ossoff were trying to get back but have conflicts with other committees. So let me just go to my question. I want to follow up on this USDA Loan 502 pilot program that Senator Rounds mentioned and I mentioned as well.

Alene, I am going to direct this to you. I think you mentioned this in your testimony. So the USDA's 502 Direct Loan Program offers single-family home loans to low-income rural households, but only about 2.6 percent of these loans go to Native families. So the USDA established this pilot program in North and South Dakota where Native CDFIs could use their community-based networks to deploy these USDA mortgages.

Alene, could you talk to us about sort of what we have learned from this, what impact? I am looking at ways that we could expand this pilot nationally and would love to hear your thoughts on, you know, what kind of—where you think we should go from here with this?

Ms. TCHOURUMOFF. Well, thank you, Senator. I think I mentioned in my testimony, as well, that some of the Federal loan programs that are designed to provide mortgage financing on trust

lands or just in general, and then the difficulty of actually providing those loans on trust land I think is present across multiple programs, and that same case applies in the 502 Program.

The pilot relending program provides a promising example of how CDFIs can be leveraged in communities to serve more customers. In that example, you could see the relending increasing the total number of loans. I think it was 17 loans in one year versus 11 loans in the prior eleven years. You can see the power of the network. In that instance as well, the CDFIs provide financial education and other borrower support to make the program work overall more successfully. There are promising examples there. However, there are broader systemic issues that we had talked about earlier relating to land trust, the use of trust land, and then borrower—lender knowledge of lending on trust land is, I think, another avenue outside of CDFIs that continues to be an area of opportunity to look for solutions.

Chair SMITH. Thank you. Thanks so much.

Let me just ask—maybe I will just direct this broadly to the panel. As I have listened to your testimony today, you each raised a number of really practical and clear issues and ideas for where we can go from here. So let me just maybe ask each of you if there is anything more that you would like to say. What is the single most important thing that we could do in your mind to addressing this lack of access to affordable housing and good-quality housing that is such a deep challenge?

Mr. DESIDERIO. If I may start, this is really interesting question. I think it gets to the idea that if the housing is becoming worse in Indian Country or more challenging, we need to change the way that we are doing things. So taking a holistic approach, the incentives are not lined up to have the capital markets come in. So I would love a question—I was tuned into the Banking hearing yesterday for the CEOs of the banks, and the idea that—the Community Reinvestment Act was passed last year, and now it is on hold. But what are those banks doing to serve Indian Country who are now squarely in their assessment area? What are their plans? And most of the large banks do not have plans on addressing Indian Country, and they have no intention of doing that because it is more difficult.

So we need to align the incentives of the capital markets to do business in Indian country, and I think the Community Reinvestment Act, the way that that has lined up, it gives Indian Country as a distressed area the incentive that banks need to come in. They get multiples that are applied to doing business in Indian Country so they can meet their CRA qualifications sooner. They also have the ability to invest in the banks that have learned to deal with Indian Country. And they also can do equity investments and support CDFIs. And I think those kind of incentives when you are lining it up and that kind of structure is really what we need on the incentive side.

The support from the Federal Government in dealing with this one house at a time for, you know, the USDA program is good to show banks the way. But when we are looking at this, the Title VI program shows the most promise because that program allows the tribe to leverage funds and develop housing developments instead

of one house at a time. We should be supporting that and the other infrastructure that goes with it, and really supplementing that program on the Community Development Block Grants that we are leveraging. With 95 percent guarantees, tribes are still having trouble getting banks to come in and support that, and that shows that it is not just the incentives; there has to be education on the banking side who would love to have a 95-percent guarantee, but there is not always the education internally with the branches and the banks themselves to deal with Indian Country.

So looking at where the incentives are, looking at the role of the Government in doing developments, and looking at bringing the capital markets in is really going to be instrumental in solving this in a general way instead of looking at it one house at a time.

Chair SMITH. Right. Thank you. My time is up. I am going to turn back to Senator Rounds, but I appreciate that very much, and I look forward to following up on that conversation. I think it is very important.

Senator Rounds.

Senator ROUNDS. Thank you, Madam Chair. And, once again, thanks for holding this hearing. And just so that our witnesses know, we have been called to a vote, and so we are probably going to—and it is up to the Chairperson, but it looks like we have got about 7 minutes left before the vote terminates on us. So I will be very brief.

I want to thank all of our witnesses for being with us today. I do want to just touch base on the 184 HUD loan program, the guarantee program. We made some changes, and Senator Smith and I have worked on this in the past, and more specifically, we partnered together on legislation called the “Native American Housing Affordability Act”. It was signed into law as part of the December omnibus. Our legislation made it easier for 184 borrowers on Tribal Trust Land to participate in the 184 program by allowing HUD to issue certificates of guarantee without waiting on the trailing documents from the BIA, provided that lenders indemnify HUD for defaults.

I am hoping to get a better idea of how well these reforms have worked in the 6 months since they have become law. We may not have any evidence yet at all of success, but I was hoping that perhaps there might have been some sort of an uptick in lending. I just thought I would start just very briefly, Mr. Stevens, do you know anything about whether or not there has been any uptick at all based on the changes made?

Mr. STEVENS. Not yet, not that I have seen, but for us in New York we were limited on the amount of lending agencies that offered the 184 program. At one point within the last year, we had nobody available to us. We just got recently—because we had applied recently, about 3 years ago, working with a company that they were told that New York State refused to do 184. So how could we they do that? And we do have a couple companies that we are working with right now to do 184 in New York State. So it is a different issue, too, with the land issue that we have in New York State versus other tribal areas, too, so it is going to be a little tweaking that we have to do to really make sure that we can get

that program up and running, and we are working with one of the lending agencies now to do that.

Senator ROUNDS. OK. Thank you very much.

Ms. Tchourumoff, I am just curious. From the Fed, have you heard anything, have you seen anything with regard to the changes that we have made?

Ms. TCHOURUMOFF. Senator, we have not, and that is actually an area that we would love to work with others on. It is just the availability of data on these programs so that we can continue to monitor and track progress of availability and where the loans are being used, for example.

Senator ROUNDS. Great. Thank you.

Madam Chair, I know that we are pressed for time on this, so I will yield back at this time. But I just want to say once again thanks for holding this hearing. I think we can put together some good programs, and I think this is something that all of us want to try to address and make improvements on. If it was easy, it would have been done a long time ago. There are lots of intricacies on it. There are lots of issues to go to Tribal Trust, the challenges that we face just in terms of the amount of poverty that we find to begin with. But this is something that I think—this is an area that truly can make a difference for individuals that really could use some help.

So, Madam Chair, thanks, and I will yield back.

Chair SMITH. Thank you so much, Senator Rounds. And thank you so much to all of our witnesses for being a part of this Subcommittee hearing today and for providing your testimony.

I want to just note that both Senator Rounds and I serve also on the Senate Indian Affairs Committee, and so we have an opportunity to work on these issues in both paces here, and I know we have been listening hard around issues around reauthorizing NAHASDA as well as the other very great and specific ideas that you all have offered today.

For Senators who would wish to submit questions for the record, those questions are due 1 week from today, which will be Thursday, June 3rd. And for all of our witnesses, you have 45 days to respond to any questions for the record.

Thank you again, and with that, this hearing is adjourned.

[Whereupon, at 11:16 a.m., the hearing was adjourned.]

[Prepared statements and responses to written questions supplied for the record follow:]

PREPARED STATEMENT OF DANTE DESIDERIO

CHIEF EXECUTIVE OFFICER, NATIONAL CONGRESS OF AMERICAN INDIANS,
WASHINGTON, DC

MAY 27, 2021

On behalf of the National Congress of American Indians (NCAI), thank you for holding this hearing to address housing needs in Indian Country. I am Dante Desiderio, I am a member of the Sappony Tribe, and I serve as the Chief Executive Officer of NCAI.

Founded in 1944, NCAI is the oldest and largest representative organization comprised of Tribal Nations and their citizens. Tribal leaders created NCAI in response to Federal policies that threatened to terminate Tribal Nations. Since then, NCAI has fought to preserve the treaty and sovereign rights of tribal governments, advance the Government-to-Government relationship, and remove structural impediments to tribal self-determination.

Central to these goals is ensuring that the Federal Government provides resources to improve housing opportunities for Tribal Nations and their citizens.¹ Tribal Nations across the country maintain and develop housing infrastructure that serves to improve their citizens' health outcomes, sustain their regional economies and workforces, and address our growing population.

Despite this role, for decades, the Federal Government has recognized that its trust and treaty responsibility to Tribal Nations to provide adequate housing has been chronically underfunded.² As a result, tribal communities see overcrowded homes at a rate of 16 percent, roughly eight times the national average.³ Additionally, over 70 percent of existing housing stock in tribal communities requires upgrades and repairs, many of them extensive.⁴

These disparities increased the vulnerability of American Indians and Alaska Natives (AI/ANs) to the coronavirus (COVID-19) pandemic and resulted in our communities having at times the highest COVID-19 infection, hospitalization, and death rates per capita in the United States.⁵

Today's hearing on the challenges and barriers to accessing affordable housing in Indian Country comes at a time when Tribal Nations across the country can attest with experience that access to cost-effective housing for Indian Country is lacking. NCAI's testimony will first identify the current state of housing in Indian Country, then identify some impediments and barriers facing Tribal Nations and Tribally Designated Housing Entities (TDHEs) when attempting to build and finance homes. Finally, while identifying barriers is helpful in understanding challenges, it does not always offer a pathway forward for creating policy solutions. Therefore, our testimony will also draw attention to programs that are working for Indian Country and offer recommendations that will allow for the construction and financing of homes on tribal lands.

The State of Housing in Indian Country

Historically, Tribal Nations have faced a pervasive housing crisis caused by underinvestment by the Federal Government that has left tribal citizens living in substandard and cost-burdensome conditions. 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."⁶ HUD also reported that 70 percent of existing

¹ 25 U.S.C. §4101(5) (acknowledging, inter alia, that "providing affordable homes in safe and healthy environments is an essential element in the special role of the United States in helping tribes and their members to improve their housing conditions and socioeconomic status [.]")

² "A Quiet Crisis: Federal Funding and Unmet Needs in Indian Country", U.S. Commission on Civil Rights (2003) <https://www.yumpu.com/en/document/read/32869468/a-quiet-crisis-federal-funding-and-unmet-needs-in-indian-country>; and "Broken Promises: Continued Federal Funding Shortfall for Native Americans", U.S. Commission on Civil Rights (2018) ("Broken Promises Report"), <https://www.usccr.gov/pubs/2018/12-20-Broken-Promises.pdf>.

³ U.S. Department of Housing and Urban Development (HUD), "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>.

⁴ HUD, Fiscal Year 2017 Congressional Justifications, 11-12, (2016), <https://www.hud.gov/sites/documents/FY-2017-CJS-COMBINED.PDF>.

⁵ Centers for Disease Control and Prevention, "Risk for COVID-19 Infection, Hospitalization, and Death by Race/Ethnicity", <https://www.cdc.gov/coronavirus/2019-ncov/covid-data/investigations-discovery/hospitalization-death-by-race-ethnicity.html>.

⁶ U.S. Commission on Civil Rights, "Broken Promises: Continued Federal Funding Shortfall for Native Americans", 137, (2018), <https://www.usccr.gov/pubs/2018/12-20-Broken-Promises.pdf>.

housing stock in tribal communities is in need of upgrades and repairs, many of them extensive.⁷ The 2017 report also found that it would take approximately 33,000 new housing units to alleviate overcrowding and an additional 35,000 housing units to replace existing units in grave condition.⁸ To meet the total need of approximately 68,000 housing units (new and replacement), factoring in the average development cost of a three-bedroom home, the total cost is in excess of \$33 billion.⁹

The lack of affordable housing is also a problem in Indian Country, with 37.5 percent of Native households spending more than 30 percent of their income on housing expenses, an amount considered to be a cost burden.¹⁰ This lack of affordable housing contributes to homelessness and overcrowding. Those living in tribal areas often report instances of “hidden” homelessness, making the issue of homelessness less conspicuous in Indian Country than in non-tribal areas. The Urban Institute in 2017 found that approximately 99.8 percent of tribal housing officials surveyed reported that “doubling up” (i.e., taking in family and friends who would otherwise have nowhere else to go) was a problem in their tribal areas. Additionally, 88 percent of housing officials surveyed said traditional homelessness (i.e., sleeping on the street, in an emergency shelter, or someplace not meant for human habitation) was an issue in their tribal communities.¹¹ Designated homeless services are also less common in tribal areas. Although homelessness affects nearly all tribal areas, only half of the tribal areas visited for Urban Institute surveyed had a shelter within their tribal area boundaries.¹² Additionally, 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

Challenges and Barriers To Accessing Affordable Housing

Lending on Indian Trust Land and Burdensome Permitting Processes

AI/ANs on tribal lands or in remote areas face significant barriers to home ownership. These barriers include AI/ANs having some of the highest rates of unemployment and poverty, lacking access to credit services, and lacking education about what it takes to become a homeowner. In 2019, the Federal Deposit Insurance Corporation (FDIC) found that 16.3 percent of AI/AN households were unbanked, compared to only 5.4 percent of the general population.¹⁵ Banks and credit institutions are less likely to have branches in tribal areas, which is due in part to the jurisdictional complexity of lending on tribal lands. A 2016 Native Nations Institute study found that Indian Country faces “high interest rates on loans, the inability to use trust land as collateral on loans, and a general unwillingness on the part of financial institutions to lend to reservation-based applicants.”¹⁶ Economic and social con-

⁷ HUD, Fiscal Year 2017 Congressional Justifications, 11-12, (2016), <https://www.hud.gov/sites/documents/FY-2017-CJS-COMBINED.PDF>.

⁸ HUD, “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>.

⁹ National Congress of American Indians, “Tribal Infrastructure: Investing in Indian Country for a Stronger America”, An initial report by NCAI to the Administration and Congress, 2017, p. 11, <https://www.ncai.org/attachments/PolicyPaper-RslnCGsUDiatRYTpPXXKwThNYoACnjDoBOrdDIBSRcheKxwJZDCx-NCAI-InfrastructureReport-FINAL.pdf>.

¹⁰ Ibid.

¹¹ Urban Institute, “Urban Wire: Homelessness in Indian Country Is a Hidden, But Critical, Problem”, (2017), <https://urban.is/2gPtVcJ>.

¹² Ibid.

¹³ HUD, “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 HUD, Fiscal Year 2017 Congressional Justifications, 11-4, <https://www.hud.gov/sites/documents/FY-2017-CJS-COMBINED.PDF>.

¹⁵ Federal Deposit Insurance Corporation, “How American Banks: Household Use of Banking and Financial Services”, 2019 FDIC Survey, <https://www.fdic.gov/analysis/household-survey/2019report.pdf>.

¹⁶ Native Nations Institute. 2016. Access to Capital and Credit in Native Communities (digital version). Tucson, AZ: Native Nations Institute. <https://nni.arizona.edu/application/files/8914/6386/8578/Accessing-Capital-and-Credit-in-Native-Communities.pdf>

straints like lower borrower incomes and limited or blemished credit histories broadly impede the expansion of mortgage credit to underserved populations.¹⁷

The unique status of trust lands being inalienable makes it difficult for private lenders to obtain security interests in individual plots and most private lenders are uneducated on what practices they can employ to lend to AI/ANs residing on tribal lands.¹⁸ This makes lenders reluctant to lend to either individual AI/ANs, Tribal Nations, and TDHEs interested in developing housing. Further exacerbating the issue, the Bureau of Indian Affairs must review all trust land leases and provide verification of land ownership via a title status report. This verification has historically taken several weeks, months, or even years to complete.¹⁹ In 1977, Congress designed the Community Reinvestment Act (CRA) to combat some of these issues for low and moderate income areas. Unfortunately, under the current iteration of the CRA, banks can fulfill those requirements without having to serve AI/AN communities, leaving lending institutions with little to no incentive to invest in Indian Country.

Lack of Access to Housing Tax Credits

Multifamily housing properties in Indian Areas are few and far between and typically require housing subsidies. These housing projects depend on tax credit equity and housing grants because debt financing for affordable housing is limited in Indian Areas.²⁰ The Low Income Housing Tax Credit (LIHTC) program is one of the primary resources for developing affordable rental housing nationwide, yet LIHTCs are substantially underused in Indian Areas.

Currently, LIHTC allocations are only provided to state governments who in turn can provide allocations to Tribal Nations, but often do not. Development and operation of affordable housing is more difficult because the poverty rate and unemployment rate among tribal citizens is more than twice the rest of the Nation. Most properties cannot support debt financing because of their tenants' low incomes. Indian reservations are located in 70 of the 386 persistent poverty counties, meaning they have been in poverty for generations, at least partially due to underlying structures of disadvantage.²¹ LIHTCs remain the primary mechanism for affordable housing development in the U.S. and should be a resource that Indian Country benefits from.²²

Chronic Underfunding for Adequate Housing

While the Federal Government maintains a unique trust responsibility to Tribal Nations and their citizens, there is insufficient support for housing on tribal lands. One of the key issues is funding stagnation. As inflation grows, the funding amounts rarely do. The Indian Housing Block Grant (IHBG) program is an example of a key program to support housing needs; however, it is formula-based and has maintained the same level of funding for the past 20 years. As a result, this critical program has failed to keep pace with inflation, leaving many Tribal Nations out in the cold.²³

The flat-funding of Federal housing programs for Tribal Nations, combined with inflation in construction costs over time, has resulted in a sharp decrease in the number of affordable housing units developed in Indian Country in recent years.²⁴ In 2016, the Acting Deputy Assistant Secretary at HUD stated that "one of the greatest impediments to developing affordable housing in Indian Country is the flat funding of the IHBG for most of the program's history."²⁵ This decrease in the num-

¹⁷ HUD, "Mortgage Lending on Indian Land: A Report From the Assessment of American Indian, Alaska Native, and Native Hawaiian Housing Needs", p. vii, (2017), <https://www.huduser.gov/portal/sites/default/files/pdf/NAHSG-Lending.pdf>.

¹⁸ U.S. Department of Agriculture (USDA), "Lending on Native American Land: A Guide for Rural Development Staff", (2006), <http://www.ruralhome.org/storage/documents/nativeameriguideforusda.pdf>.

¹⁹ Ibid.

²⁰ "Indian Area" as defined by 24 CFR §1000.302.

²¹ U.S. Department of Agriculture (USDA), "Lending on Native American Land: A Guide for Rural Development Staff", (2006), <http://www.ruralhome.org/storage/documents/nativeameriguideforusda.pdf>.

²² Housing Assistance Council, "Low Income Housing Tax Credits in Indian Country", (2019), <https://www.ncai.org/policy-research-center/initiatives/LIHTC-in-Indian-Country.pdf>.

²³ U.S. Commission on Civil Rights, "Broken Promises: Continued Federal Funding Shortfall for Native Americans", 142, (2018), <https://www.usccr.gov/pubs/2018/12-20-Broken-Promises.pdf>.

²⁴ Ibid.

²⁵ Randall R. Akers, then Acting Deputy Assistant Secretary at HUD, Testimony, Briefing Transcript, pp. 166–167.

ber of affordable housing units is negatively mirrored by the growing AI/AN population and their housing needs.

In addition to funding shortfalls, the location of many tribal communities increases the material and labor costs of home construction and imposes additional housing development costs.²⁶ 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.²⁷ For many remote areas with extreme weather conditions, construction seasons are very short, leading to increased costs for already overburdened homebuyers.

Solutions and Suggested Congressional Action

The barriers presented throughout this testimony underscore the need for robust funding increases through flexible programs that allow Tribal Nations to address the diverse and extensive housing infrastructure and financing needs of their communities. Despite mounting challenges, Tribal Nations are now exercising their right of self-determination to design and implement their own housing and other community development infrastructure programs. In order to support tribal sovereignty and increase access to housing for AI/ANs, NCAI recommends the following congressional actions:

Reauthorize NAHASDA and Increase Funding for IHBG Formula Grants

The Native American Housing Assistance and Self-Determination Act (NAHASDA), first enacted in 1996, authorized Tribal Nations to self-determine their housing programs. NAHASDA gave flexibility for Tribal Nations to develop, construct, and maintain housing for their members, transforming how Federal housing programs addressed housing needs in tribal communities. Additionally, NAHASDA consolidated existing housing funds into a single block grant, IHBG, resulting in tens of thousands of additional housing units being constructed, as well as increased tribal capacity to address related infrastructure and economic development challenges. IHBG is a formula-based grant that provides certainty and security for long-term housing and community development.

NAHASDA also authorizes two important home loan programs, the Title VI Loan Guarantee program (Title VI) and the Section 184 Loan Guarantee Program (Section 184). Title VI was created to assist tribes, Alaska Native Villages, and TDHEs with financing affordable housing and provides Federal guarantees for private market financing of housing development in Indian Country.²⁸ Section 184 provides a 100 percent guarantee to private lenders in cases of home loan default. Tribal Nations have successfully participated in this program with an extremely low default rate.²⁹ Using Section 184, Tribal Nations and tribal citizens can purchase an existing home, obtain single-close construction loans for stick-built or manufactured homes on a permanent foundation, obtain rehabilitation loans, or obtain both a purchase and rehabilitation loan.

In the 116th Congress, Senator John Hoeven introduced S. 4090, the NAHASDA Reauthorization Act. This legislation marks the first bipartisan reauthorization bill in the Senate since NAHASDA expired in 2013. S. 4090 proposed to reauthorize NAHASDA programs through 2031, create an Assistant Secretary for Indian Housing at HUD, and update several key provisions including, but not limited to: streamlining environmental review requirements; allowing tribal housing programs to access IHS sanitation funding; and tribal eligibility for HUD Housing Counseling and Homelessness Assistance grants. NCAI strongly urges Congress to reintroduce and pass legislation that reauthorizes NAHASDA through 2031 and provide increased funding appropriations for IHBG formula grants of at least \$1 billion to help address the ongoing housing crisis in Indian Country.

Modernize The Community Reinvestment Act To Increase Lending in Indian Country

Congress should support finalizing the implementation of the Office of the Comptroller of Currency (OCC), Federal Reserve Board, and the FDIC’s most recent CRA

²⁶ U.S. Commission on Civil Rights, “Broken Promises: Continued Federal Funding Shortfall for Native Americans”, 142, (2018), <https://www.usccr.gov/pubs/2018/12-20-Broken-Promises.pdf>.

²⁷ Ibid.

²⁸ Department of Housing and Urban Development, “Title VI Loan Guarantee Program Fact Sheet for Lenders”, (2021), <https://www.hud.gov/sites/documents/TITLEVI-FACT-SHEET-LENDERS.PDF>.

²⁹ Department of Housing and Urban Development, HUD, “Mortgage Lending on Indian Land: A Report From the Assessment of American Indian, Alaska Native, and Native Hawaiian Housing Needs”, p. 31, (2017), <https://www.huduser.gov/portal/sites/default/files/pdf/NAHSG-Lending.pdf>.

proposed rules, Modernization of Community Reinvestment Act Regulations.³⁰ These rules will address Indian Country's lending issues by providing banks with CRA credit for serving tribal communities even when Indian Country falls outside their CRA assessment areas and creating CRA scoring incentives for banks that choose to do business in Indian Country. Congress should also urge the Federal Reserve, FDIC, and OCC to increase education of lending in Indian Country for regulators and lenders, and to increase ongoing communication between credit institutions and Tribal Nations and their business enterprises.

Increase Access to the Low Income Housing Tax Credit Program and Provide a Proportionate Rate for Tribal Governments

Given the enormous needs for housing, NCAI strongly supports the expansion of LIHTCs for Tribal Nations to ensure that the needs of their citizens are met. Tribal Nations have been disproportionately left out of this program and seek increased deployment in Indian Country and inclusion in the program's allocation criteria. In April 2021, Senators Cantwell, Wyden, Young, and Portman introduced the Affordable Housing Credit Improvement Act of 2021, which expands the definition of Difficult Development Areas to include Indian Areas as defined in NAHASDA. NCAI urges Congress to pass similar legislation and include a proportionate allocation of funds specifically for tribal governments. Providing a proportionate allocation of funds to tribal governments will ensure these critical resources reach the populations that require this support most.

Permanently Reauthorize the Tribal HUD-VASH Program

Native veterans have a long history of distinguished service to this country. Per capita, they serve at a higher rate in the Armed Forces than any other group of Americans and have served in all the Nation's wars since the Revolutionary War. Native veterans even served in several wars before they were even recognized as U.S. citizens. Despite this esteemed service, homelessness is a concern for our Native veterans. To combat this issue, Congress created the HUD-Veterans Affairs Supportive Housing (HUD-VASH) program. The program has been a nationwide success because it combines rental assistance, case management, and clinical services for at-risk and homeless veterans. Unfortunately, this program is not fully available to Native veterans living on tribal lands.

In the 116th Congress, Senator Jon Tester introduced S. 257, the Tribal HUD-VASH Act of 2019. S. 257 would codify and make permanent the Tribal HUD-VASH program within the larger HUD-VASH program and ensure adequate funding for the program. In addition, the bill would make all Tribal Nations and their tribal housing programs eligible for the HUD-VASH program, which to date has remained limited to the original 26 recipients. The bill would also call on the Indian Health Service to assist the program as requested by HUD or the Department of Veterans Affairs (VA).

NCAI has a standing resolution supporting this legislation, Resolution #ECWS-14-001, "Support for Indian Veterans Housing Rental Assistance Demonstration Program in the Native American Housing and Self-Determination Act Reauthorization". Accordingly, NCAI urges Congress to pass similar legislation early in the 117th Congress.

Create a \$50 million Tribal Set-Aside From the Rural Development 502 Direct Loan Program To Establish a National Relending Program for Indian Country

U.S. Department of Agriculture (USDA) Rural Development (RD) has limited staff resources to provide Single Family Housing Direct Loans on tribal land. In FY 2020, of the 5,821 direct loans made nationally by USDA RD, just 110 were issued to AI/AN borrowers, and only seven of those were for homes on tribal lands.

In 2018, a 502 Direct Loan relending pilot program was announced, providing \$2 million to two Native Community Development Financial Institutions (CDFIs) to relend to eligible Native families in North and South Dakota. The demonstration program was highly successful, deploying 17 loans mortgage loans in less than a year on two South Dakota Indian reservations, Cheyenne River Indian Reservation and Pine Ridge Indian Reservation, nearly twice the amount deployed in the previous decade, with an additional pipeline of demand from 29 families for \$3.6 million in mortgage financing on those two reservations alone.

This pilot program has been successful, in part, due to Native CDFIs' experience operating on tribal lands. Support for Native CDFIs is essential to solving low rates

³⁰ Office of the Comptroller of the Currency, Treasury; Community Reinvestment Act Regulations; 85 FR 34734 (June 5, 2020), <https://www.occ.gov/news-issuances/federal-register/2020/85fr34734.pdf>.

of lending and home ownership on tribal lands. They provide extensive financial and homebuyer education to help their clients become self-sufficient private homeowners. The proposed expanded relending pilot program would increase the flow of mortgage capital to Indian Country by allowing Native CDFIs to be eligible borrowers under the 502 Direct Loan Program and enable them to relend to eligible families for the construction, acquisition, and rehabilitation of affordable housing. NCAI strongly urges Congress to pass legislation authorizing the national expansion of this relending program and creating a \$50 million set aside within the 502 Direct Loan program.

Conclusion

On behalf of NCAI, I again thank you for the opportunity to submit testimony and for holding this hearing. Reauthorizing NAHASDA, increasing funding for IHBG formula grants, improving tribal access to the Low-Income Housing Tax Credit Program while providing a proportional rate for tribal governments as compared to State governments, modernizing the Community Reinvestment Act to increase lending in Indian Country, and reauthorizing critical legislation like the Tribal HUD-VASH program will improve housing conditions in Indian Country. If Congress does not act, our existing housing stock in tribal communities will continue to deteriorate. Our Tribal Nations and their citizens will continue to have less than favorable health outcomes, struggling economies, and be in a worse position than other citizens when the next major disaster arrives. NCAI looks forward to working with this Subcommittee and the full Committee to ensure access to affordable housing in Indian Country and would be happy to connect further on these issues.

PREPARED STATEMENT OF ADRIAN STEVENS

ACTING CHAIRMAN OF THE BOARD OF DIRECTORS, NATIONAL AMERICAN INDIAN HOUSING COUNCIL; EXECUTIVE DIRECTOR, SENECA NATION HOUSING AUTHORITY, AND MEMBER, SENECA NATION, IRVING, NEW YORK

MAY 27, 2021

Good Afternoon. My name is Adrian Stevens, and I am the Acting Chairman of the Board of Directors of the National American Indian Housing Council. I am a member of the Seneca Nation, and I currently serve as the Executive Director of the Seneca Nation Housing Authority in Salamanca, New York. I would like to thank Chairwoman Smith, Ranking Member Rounds, and all Committee Members for having this hearing today and for working to ensure the United States is fulfilling its trust and treaty obligations towards Indian Country with respect to providing safe, affordable housing opportunities in tribal communities and to Native people anywhere in the country.

Background on the National American Indian Housing Council

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

The membership of NAIHC is comprised of 280 members representing 469¹ tribes and tribal housing organizations. NAIHC's membership includes tribes and tribally designated housing entities throughout the United States, including Alaska and Hawaii. Every member of this Committee serves constituents that are members of NAIHC, either directly through tribes located in your States, or generally through the United States' Government-to-Government relationship with all tribes within the United States. NAIHC's members are deeply appreciative of your work to improve the lives of Indigenous Peoples throughout the Country.

¹ There are 574 federally recognized Indian tribes and Alaska Native villages in the United States, all of which are eligible for membership in NAIHC. Other NAIHC members include State-recognized tribes eligible for housing assistance under the 1937 Housing Act and that were subsequently provided funding pursuant to the Native American Housing Assistance and Self-Determination Act of 1996, and the Department of Hawaiian Home Lands, the State agency that administers the Native Hawaiian Housing Block Grant program.

Profile of Indian Country

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

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

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

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

Since the Native American Housing Assistance and Self-Determination Act (NAHASDA) was enacted in 1996, tribes have built over 37,000 new units according to HUD. However, as the appropriations for the Indian Housing Block Grant (IHBG) (established by NAHASDA) have remained level for a number of years, inflation has diminished the purchasing power of those dollars, and new unit construction has diminished as tribes focus their efforts on existing unit rehabilitation. While averaging over 2,400 new unit construction between FY 2007 and 2010, new unit construction has dropped in recent years with only 2,000 new units between 2011 and 2014, and HUD estimating less than 1,000 new units in future years as tribes maintain existing housing stock over new development.

Status of Housing Opportunities for Native Americans

There remains a large unmet need for quality, affordable housing in tribal communities. As Members of the Committee are aware, there is a housing shortage across the country, and that is definitely true for Native communities. With a lack of consistent data collection year-to-year, NAIHC is largely relying on the American Indian, Alaska Native, and Native Hawaiian Housing Needs Study, published by HUD in January 2017. The report identified an unmet need of 68,000 units to address overcrowded and substandard housing conditions. With new housing construction or acquisition fairly stagnant around 1,000 new units per year in tribal communities across the United States, we do not expect the unmet need to have changed. Additionally, many of NAIHC's members have opined that they believe the 2017 Study's unmet need calculation to be underestimated.

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

Despite these trends moving in the wrong direction, Congress has been decreasing the amounts of housing assistance to tribal communities each year through stagnant funding of NAHASDA programs while inflation has grown over the past 20 years. In FY 2020, Congressional IHBG formula funding of \$650 million provided roughly $\frac{2}{3}$ the purchasing power that tribes received at the inception of NAHASDA in FY 1998 (\$600 million in FY 1998). Tracking IHBG funding since NAHASDA's passage found that annual appropriations compared to inflation-adjusted levels have caused tribal housing programs to lose \$3.4 billion since FY 1998. Recent additions to NAHASDA programs, such as the competitive IHBG funding, are welcome and encouraging, but alone are insufficient to make up for the loss of funding over time.

To put the funding in another perspective, the FY 2021 IHBG funding levels provide 379 tribes/grantees with less than \$500,000 to operate their housing program, which we expect to manage their existing housing units, provide low-income rental assistance, other housing services AND develop new housing units. Further, 175 of the IHBG grantees received less than \$100,000 a year to carry out these activities.

While some of the tribes form umbrella organizations to create some efficiencies, it should be easy to see why we're not making much progress against the levels of unmet need.

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

It is with that upgraded capacity of tribal housing programs provided for by NAHASDA that we can begin to look at the full landscape of Federal housing resources and programs. HUD itself has numerous housing programs and resources, some general, some tribe specific. Tribal programs include the Indian Community Development Block Grant (ICDBG), the HUD 184 Native American Loan Guarantee Program, NAHASDA Title VI Loan Guarantee Program, the formula funded and competitive IHBG programs, and Native Hawaiian programs. Other HUD programs have varying levels of eligibility for tribes, and NAIHC has advocated both to Congress and with our Federal partners to improve tribal access to these more national programs. The best example is the HUD Housing Counseling program, which tribes are currently ineligible to apply for funds but may soon find themselves subject to housing counseling regulations not tailored for tribal communities. Another example is the Continuum of Care program, which was addressed last Congress by the inclusion of the Tribal Access to Homeless Assistance Act in the FY 2021 Consolidated Appropriations Act. NAIHC thanks Senator Smith who introduced the bill and all the members who supported the passage of this bill.

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

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

Improvements To Existing Housing Programs

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

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

it was made permanent and tribes had more certainty for future funding of the program.

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

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

State Housing Programs and Passthroughs: Several Federal programs, notably the Low Income Housing Tax Credits and the Housing Trust Fund, establish funds or processes that operate at the State-level. While many of these States utilize the unmet housing needs in tribal communities to improve their allocations, there is not necessarily a mechanism that requires the States to prioritize tribal areas in receiving the final benefit of these Federal housing programs. The result is a mix of effectiveness of these programs in tribal communities, where the relationship between State and tribal officials can greatly affect the final impact of these programs for tribes. In States where we see tribal or rural areas receiving some type of allocation or increased application scores, tribes have been successful in developing new projects with these Federal funds.

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

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

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

Improve the Effectiveness of non-HUD Housing Programs in Indian Country: As stated above, there are several Federal housing programs established outside of HUD. While these programs are often national in scope, the lack of attention paid by these programs to tribal communities often limits their impact for native families. For instance, USDA Rural Housing programs are tailor made for rural areas, and often are targeted to low-income families, yet their reach to tribal communities has been limited. Often this is due to USDA program staff not geographically lo-

cated near the tribal community or limited outreach to families in those tribal communities. We're often asking our overburdened tribal housing professionals to know the USDA programs well enough to connect those families with USDA resources. A recent pilot project in South Dakota has allowed the USDA 502 Single Family Home Loan program to lend to Native CDFIs as intermediaries, while those Native CDFIs carry out the lending directly in tribal communities. This has been successful, with the Native CDFIs largely maxing out their mortgage lending with the funding available under the pilot. This on-the-ground presence in tribal communities as well as the comfort level of native families working with native housing professionals has allowed more native families to access USDA resources. This model could be expanded both throughout USDA Rural Housing programs and through other Federal housing programs, such as the VA's Native American Direct Loan Program. The NADLP program only have 7–10 staff to market the program and serve Native American veterans in all 574 tribal communities across the country. As a result of the lack of presence of that program, very few mortgage loans are provided to Native veterans each year.

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

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

Impacts of COVID on Tribal Housing

Finally, the COVID–19 pandemic has also highlighted how far behind we are in meeting the housing needs of Indigenous Peoples of the United States. The housing shortage in tribal communities causes high levels of overcrowded homes. The 2017 HUD Assessment estimates that 1 in 6 homes in Native communities suffers from overcrowding, which is eight times the national average. It is not uncommon for three or more generations to live under the same roof. These overcrowded conditions do not allow families from practicing safe social distancing that is necessary to prevent or reduce the spread of a virus like COVID–19.

The 2017 HUD Housing Needs Assessment also found high rates of substandard plumbing in 5.6 percent of tribal homes, which is 4 times the national average. This lack of access to clean water in many homes means families can't practice the basic safety precaution of adequate hand-washing and other sanitation practices. With these issues affecting tribal homes at higher rates, it is no wonder that rates of infection of COVID–19 are 1.7 times higher than non-native demographics.

To its credit, Congress has recognized the impacts of COVID–19 on tribal communities and passed a number of relief packages that include new resources for tribes and tribal housing programs. Unfortunately, new homes cannot be built at the snap of a finger, and years of inadequate funding for tribal housing and infrastructure have left tribal communities and families with few options to respond to the immediate impacts of COVID–19 or prevent its spread.

Through the CARES Act last spring, tribal housing programs were provided \$200 million of Indian Housing Block Grant funds, in addition to annual appropriations. Unfortunately, \$200 million for just under 600 grantees does not go far to address the immediate impacts of COVID–19 on tribal housing. Over half of those grantees received less than \$100,000 in additional funds to respond to their communities' housing needs under COVID–19. As development of new units and infrastructure often takes months or years of planning, tribes have been forced to acquire new housing units for short- or long-term use. However, many tribes are located in areas where the availability of new units is very low or of substandard quality and needing improvement. NAIHC understands that tribal approaches to address their local needs have varied across the country. Some tribes were able to utilize other tribal

community buildings, in some cases including hotels or casinos, to alleviate overcrowded conditions or to use as makeshift quarantine facilities. Many tribes also provided increased rental assistance to families to allow families to separate into multiple homes. Where local units were unavailable, some tribes have had to help tribal members find housing in nearby towns away from tribal centers, sometimes 50–100 miles away.

The CARES Act also provided \$100 million for emergency grants under the Indian Community Development Block Grant. These funds were provided to 96 tribes. According to a HUD press release, these grants helped provide for the construction of new rental housing to address overcrowding and homelessness; the construction of water infrastructure, including water wells and water lines; the purchase and renovation of an old clinic facility to facilitate access to testing, diagnosis, and treatment of Tribal members; and the provision of emergency food supplies to geographically isolated communities.

With the passage of the American Rescue Plan, tribes will see another \$450 million in Indian Housing Block Grant funding and \$280 million emergency grants under the Indian Community Development Block Grant. NAIHC expects that this additional round of funding will provide for even greater development or acquisition of new units beyond what was provided by the CARES Act. One large concern we have heard from tribes, and the larger housing industry, is that COVID–19 had disrupted construction materials pipelines and building contractors in a way that has caused a sharp spike in costs of construction.

Congress has also provided substantial set-asides to tribal housing programs specifically for rental assistance, utilities, and now mortgage assistance in tribal communities. These funds will be able to help thousands of families and individuals in tribal communities across the country. Combined, the \$1.3 billion in rental and mortgage assistance funds provided to tribes is roughly twice the annual funding provided under NAHASDA. Tribes and the NAIHC are still working with the Treasury Department to ensure that these funds are flexible enough to be fully effective in tribal communities.

Many tribes have already been operating some form of rental assistance in their communities with their NAHASDA funds, however because the recent Emergency Rental Assistance Program is operated through the U.S. Treasury, tribes are having to update their policies and comply with more rigid eligibility requirements. The additional time provided in the American Rescue Plan for ERAP grantees will help alleviate some of these issues by giving tribes more time to find eligible families and individual households. One issue that NAIHC has heard consistently is the need to expand the level of eligibility beyond 80 percent local AMI. Many tribes existing rental assistance programs have already provided assistance to these community members, and tribes are seeing families above that eligibility threshold also struggling to pay rent but ineligible for assistance.

We believe the flexibility that Congress included in the mortgage assistance program in the American Rescue Plan of expanding eligibility to 100 percent of the greater of local or national AMI will allow more families and individuals to receive assistance through that program.

While tribes appreciate the additional resources provided by Congress over this past year, the lack of progress of new housing developing in Native communities over the last 20 years cannot be reversed overnight. COVID–19 has put a spotlight on the extreme housing shortage in Indian Country. NAIHC hopes the disparate impacts of the COVID–19 pandemic in tribal communities spurs Congress to work with Tribes and tribal housing programs to address these long-standing housing needs in a way that both prevents a future pandemic from running rampant in our communities and more directly provides equitable housing opportunities for Native American, Alaska Native and Native Hawaiians.

Conclusion

NAIHC wants to thank the members of this Committee for holding this important hearing and we want to thank all the members of Congress who have introduced and sponsored bills and supported efforts to improve housing opportunities in tribal communities. Tribes have consistently shown how far they can stretch their housing dollars to help the most members of their community as possible, and NAIHC and tribal housing programs look forward to working with our partners in Congress and Federal agencies to continue building safe, affordable housing in our communities.

PREPARED STATEMENT OF ALENE TCHOURUMOFF

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MAY 27, 2021

Thank you, Chair Smith, Ranking Member Rounds, and Members of the Committee, for the opportunity to testify today on behalf of the Center for Indian Country Development at the Federal Reserve Bank of Minneapolis. The Center for Indian Country Development, or CICD, supports tribes in reaching their full economic potential through actionable research and community collaboration to advance solutions in Indian Country.

Tribal nations in the United States have a range of housing experiences and challenges. The shared features of housing markets in Indian Country derive from the long history of Government-to-Government relationships between the U.S. Government and tribes. These relationships are codified in the more than 370 treaties signed by both the United States and American Indian tribes.¹ Many of these treaties guarantee American Indian tribes' rights to maintain a home and a homeland. The promises in these treaties live on in the trust and treaty responsibility that the Federal Government maintains toward the 574 federally recognized tribes in the United States. And yet, many of those promises remain unfulfilled.

This testimony will lay out the scale of housing needs in Indian Country and describe some approaches to increasing housing availability for American Indians. Indian Country refers to the tribal lands that are under the control of sovereign Native nations. About 22 percent of people that identify as American Indians—whether alone or in combination with another race or ethnicity—live in Indian Country, and another 25 percent live nearby.² Thus, a majority of American Indians live away from Indian Country, often in urban and suburban areas.³ However, many American Indians spend time living both on or near reservations and in more urban locales,⁴ so our focus today on the housing issues in Indian Country is relevant to more of the nation's 5.2 million American Indians and Alaska Natives than Indian Country's population numbers alone might suggest.⁵

Indian Country Faces a Severe Housing Shortage and Substandard Housing Conditions

Homes on tribal lands are in short supply, and often in physically substandard condition. Around 16 percent of American Indians and Alaska Natives in tribal areas live in households that are considered overcrowded—a rate about seven times higher than that of the general U.S. population.⁶ Available housing is often physically substandard: 23 percent of American Indians living in Indian Country reside in homes that have at least one physical problem, compared to about 5 percent of other Americans.⁷ For example, American Indian households in Indian Country are 3.7 times as likely as other households to lack complete plumbing.⁸ A 2017 study from the U.S. Department of Housing and Urban Development (HUD) estimated that reservations needed an additional 68,000 units of housing to eliminate over-

¹“Broken Promises: Continuing Federal Funding Shortfall for Native Americans”, Briefing Report, U.S. Commission on Civil Rights, December 2018, p. 1.

²Nancy G. Pindus, Thomas Kingsley, Jennifer Biess, Diane Levy, Jasmine Simington, and Christopher Hayes, “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”, U.S. Department of Housing and Urban Development, Office of Policy Development and Research, January 2017 (hereafter HUD Tribal Area Study), p. 18.

³Randall Akee, “Sovereignty and Improved Economic Outcomes for American Indians: Building on the Gains Made Since 1990”, in *Boosting Wages for U.S. Workers in the New Economy: Ten Essays on Worker Power, Worker Well-Being, and Equitable Wages*, Washington Center for Equitable Growth, January 2021, p. 163.

⁴Diane K. Levy, Jennifer Biess, Abby Baum, Nancy Pindus, and Brittany Murray, “Housing Needs of American Indians and Alaska Natives in Urban Areas: A Report From the Assessment of American Indian, Alaska Native, and Native Hawaiian Housing Needs”, U.S. Department of Housing and Urban Development, Office of Policy Development and Research, January 2017 (hereafter HUD Urban Area Study), p. x.

⁵HUD Tribal Area Study, p. 18.

⁶HUD Tribal Area Study, p. 67.

⁷HUD Tribal Area Study, Foreword.

⁸Shiloh Deitz and Katie Meehan, “Plumbing Poverty: Mapping Hot Spots of Racial and Geographic Inequality in U.S. Household Water Insecurity”, *Annals of the American Association of Geographers*, 109:4, 2019, pp. 1092–1109.

crowding and replace severely inadequate units.⁹ Using a plausible range of possible construction and infrastructure development costs, Indian Country needs tens of billions of dollars worth of new housing.¹⁰

Overcrowding in Indian Country has serious consequences; HUD research has shown that it has a negative effect on family health and contributes to domestic violence and poor school performance.¹¹ It also complicates attempts to gauge home ownership levels. Traditional measures of home ownership divide the number of owner-occupied housing units by the number of occupied housing units. In 2010, the 67 percent home ownership rate in Indian Country was comparable to the overall U.S. home ownership rate.¹² But considering that Indian Country housing units are more likely to be overcrowded and contain multiple families, the share of people who own the homes they live in is almost certainly much lower in Indian Country than in the United States overall. This is supported by data showing lower home ownership rates in areas of Indian Country that were likely to have higher-quality supply of housing and thus lower overcrowding rates.¹³

Home ownership rates for Native Americans in Indian Country stayed relatively steady from 2000 to 2010,¹⁴ contrasting with survey data showing that 90 percent of Native American renters in tribal areas want to own their home,¹⁵ and with long-term economic gains among Native American households. In the last few decades, tribal economies have grown considerably. Native Americans living on reservations saw inflation-adjusted, per-capita income growth of 32.5 percent in the 1990s and 10.5 percent in the 2000s, both well above the corresponding rates for the U.S. as a whole.¹⁶

How Did Housing Conditions in Indian Country Get to This Point, and Why Have Housing Problems Persisted Despite Overall Economic Gains?

There are many reasons for the housing issues in Indian Country. Given the unique status of Native nations and their relationship with the United States, many of these reasons are tied to the Federal Government's past actions and present policies. This section of the testimony will discuss how the following factors contribute to Indian Country's housing issues:

- The prevalence of trust land in Indian Country;
- Barriers in access to consumer credit;
- Underfunding or underutilization of Indian Country programs; and
- Conflicting or complicating requirements across Federal programs.

Legal Status of Land in Indian Country Can Be a Challenge for Housing

In Indian Country, the status of land poses unique challenges to home ownership and housing development. About 60 million acres of American Indian lands are held in trust by the Federal Government and managed by the Bureau of Indian Affairs (BIA).¹⁷ Titles of land held in trust cannot be conveyed or sold without the consent of the Federal Government. For years, tribal organizations and lenders that do business in Indian Country have noted that clearing title for trust land is much more time-consuming than doing so for nontrust land.

In most cases, obtaining a home mortgage on trust land requires a certified title status report (TSR) from the BIA. However, borrowers consistently report delays in the delivery of certified TSRs that result in longer mortgage timeframes for trust land than for fee-simple land. As recently as 2019, a tribal leader testified before

⁹ HUD Tribal Area Study, p. 76.

¹⁰ CICD calculations using 2019 Home Mortgage Disclosure Act data. Lacking reliable data on construction costs, we examine average home prices and assume that 68,000 new units are needed. These and other HMDA-derived calculations in this document exclude Alaska and Hawaii. The cost of constructing new housing may, of course, be substantially different than the average value of existing homes.

¹¹ HUD, Fiscal Year 2017 Congressional Justifications, p. 11-4.

¹² L.S. Pettit, et al., "Continuity and Change: Demographic, Socioeconomic, and Housing Conditions of American Indians and Alaska Natives", HUD Office of Policy Development and Research, January 2014, p. 54.

¹³ Miriam Jorgensen, and Randall Akee, "Accessing Capital and Credit in Native Communities", Native Nations Institute, 2017, p. 46.

¹⁴ See n. 12.

¹⁵ HUD Tribal Area Study, p. 86.

¹⁶ Estimates are for reservations excluding the Navajo Nation. From Randall Akee and Jonathan Taylor, "Social and Economic Change on American Indian Reservations: A Databook of the U.S. Censuses and the American Community Survey 1990–2010", The Taylor Policy Group, Inc., May 2014.

¹⁷ "Tribal Leaders Handbook on Homeownership", Federal Reserve Bank of Minneapolis and Enterprise Community Partners, 2018, p. 79.

the United States Senate Committee on Indian Affairs that residential mortgages on his reservation were taking more than a year to clear the TSR process, despite past commitments to a 30-day timeline. CICD has heard anecdotes about months- or years-long TSR-caused delays.

Barriers in Access to Credit Limit Home Ownership Opportunities

In addition to the TSR process, home buyers on trust land must often use a leasehold mortgage. Residential mortgage lenders typically require that a mortgagor pledge as collateral their fee-simple (ownership) interest in the land underlying the financed real estate. This option is not available in the tribal residential mortgage context if the mortgagor leases—rather than owns—the underlying tribal land. In that case, the residential mortgage lender would require that the mortgagor pledge leasehold interest in the land (and any leased buildings).

As well as being procedurally distinct from mortgages in most of the United States, mortgages are often more expensive in Indian Country. In 2019, Native American borrowers on reservations who took out high-priced mortgages received an average interest rate of 7.0 percent, compared to 5.5 percent for White, non-Native American borrowers with high-priced mortgages who live near reservations.¹⁸ As a result of this interest-rate differential, White, non-Native American borrowers living near reservations could pay considerably less in interest over the lifetime of the mortgage. For example, on a \$200,000 loan, the interest savings would be \$70,000.¹⁹

Legal complexities lead many Indian Country mortgages to be nonconforming—that is, outside the typical requirements of resale to the Government-sponsored enterprises (GSEs) like Fannie Mae and Freddie Mac. With this weaker market for mortgage resale or conversion into mortgage-backed securities, loans in Indian Country for traditional, stick-built construction are more likely to have higher interest rates. Under “duty-to-serve” requirements, the GSEs are actively working to address this particular barrier to better mortgage access in Indian Country.

Potentially to avoid the complexities of leasehold mortgages, Native Americans on tribal lands turn to manufactured housing at a higher rate than other Americans.²⁰ Loans for manufactured housing, which are often chattel (personal property) loans rather than mortgage loans, typically carry higher interest rates than mortgages for traditional, stick-built homes.²¹ Our economists’ analysis suggests the increased use of manufactured housing in Indian Country—which may be in part caused by the Indian Country housing challenges discussed in this testimony—accounts for one-quarter to one-third of the disparity in mortgage costs that Native Americans face.²²

Appropriations for the Indian Housing Block Grant, a Major Source of Housing Funding in Indian Country, Have Been Largely Flat Since Its Inception

The Native American Housing Assistance and Self Determination Act of 1996 (NAHASDA) bundled previously separate sources of funding into the Indian Housing Block Grant (IHBG) and gave tribes primary responsibility over the use of this Federal assistance. From its initial FY 1998 allocation of \$600 million, which was insufficient to meet the backlog of housing development needs, the IHBG increased to \$650 million in FY 2001 and has remained relatively flat in nominal dollars since.²³ Had the initial \$600 million appropriation kept pace with inflation, tribes would have had roughly \$3.4 billion more in 2021 dollars to invest in housing through FY 2019.²⁴

Congress added \$100 million in competitive funding to the IHBG appropriation in 2018 and in the past year has made significant investments of funding for NAHASDA. Pandemic relief through the Coronavirus Aid, Relief, and Economic Security Act of 2020 (CARES Act) and the American Rescue Plan Act of 2021 provided

¹⁸A “high-priced” loan is defined as having an interest rate at least 1.5 percentage points more than the average prime offer rate.

¹⁹CICD calculation assuming a 30-year mortgage.

²⁰Donna Feir, “The Higher Price of Mortgage Financing for Native Americans”, CICD Working Paper 2019-06, Federal Reserve Bank of Minneapolis, 2019.

²¹Laurie Goodman and Bhargavi Ganesh, “Four Ways Financing Differs for Manufactured Homes”, Urban Wire: Housing and Housing Finance blog, Urban Institute, July 27, 2018.

²²See n. 20.

²³Written testimony of Lourdes Castro Ramirez, Principal Deputy Assistant Secretary for Public and Indian Housing, U.S. Department of Housing and Urban Development, United States Senate Committee on Indian Affairs, “The President’s Fiscal Year 2017 Indian Country Budget”, March 9, 2016, p. 2.

²⁴CICD staff calculation. Note that this does not include \$100 million in FY 2018 and FY 2019 for a new, competitive companion to the IHBG.

an additional \$650 million.²⁵ While this greatly increases the amount of IHBG dollars available in the short-term, it should be considered in the context of the estimated tens of billions of dollars needed for new housing in Indian Country or the housing assistance that cost-burdened households need.²⁶

HUD's Section 184 Program Is a Powerful Tool But Take-Up on Tribal Lands Is Limited

The HUD Indian Home Loan Guarantee Program, commonly known as Section 184, encourages lenders to finance Native American home buying by guaranteeing Native Americans' mortgages. The program was originally available only to mortgages for homes on trust lands, but HUD revised its Section 184 guidance in response to years of low usage and now allows for lending off of trust land.

The program is utilized much less frequently on tribal trust lands as compared to non-tribal lands or tribally owned, non-trust lands.²⁷ In fact, the annual number of Section 184 mortgages made on trust lands has not shown sustained growth since the early 2000s.²⁸ Because Section 184 loans have Federal guarantees and nominally present no risk to the lender, their limited use on trust land likely results more from lenders' levels of expertise in working with the program, their business strategies, or other factors rather than borrowers' financial characteristics. Based on CICD conversations with some lenders, when in the early years of the program traditional lenders invested in the necessary staff capacity to efficiently deploy the Section 184 program, loans using the Section 184 guarantee seemed to be profitable for lenders. However, lenders without the needed expertise may believe that the administrative costs of the program outweigh the benefits.

The Complexity of Building in Indian Country Constrains Efforts To Grow Housing Supply

As discussed above, homes are in short supply and often in substandard condition on tribal lands. Meanwhile, the high cost and complexity of building and financing homes in Indian Country stymies efforts to increase housing availability. In addition, the long history of disinvestment and unfulfilled Federal commitments has left many Native nations with inadequate infrastructure, thus limiting access to necessities like transportation and clean water.²⁹ As a result, building new housing in Indian Country often requires expensive investments in infrastructure above and beyond the cost of housing construction alone. Seven out of 10 tribal leaders identified the cost of infrastructure development as one of the top three barriers to new housing development in Indian Country, higher than the number that identified the availability of labor (39 percent) or a lack of funds (34 percent).³⁰

Tribal governments developing new housing often use multiple Federal funding streams. A project may blend resources from both Indian Country-specific and non-Native-focused programs and agencies like the BIA, U.S. Department of Agriculture (USDA), U.S. Department of the Treasury, HUD, or others. This frequent braiding of resources introduces additional administrative burden and complexity, as programs vary on everything from income limits to requirements for lead abatement. Different Federal funding sources may require different environmental reviews, historic preservation compliance, and cultural surveys, and each individual review adds time and expense to housing construction.³¹

Where Are Some Opportunities To Improve Access to Home Ownership in Indian Country?

While no quick fixes will radically improve housing conditions in Indian Country overnight, plenty of innovations are showing promise for a brighter future. This section describes the following recommendations from CICD, which are based on our engagement with tribal and community leaders over the years:

²⁵ CICD staff analysis of Federal tribal housing appropriations in the Coronavirus Aid, Relief, and Economic Security Act; Consolidated Appropriations Act, 2021; and the American Rescue Plan Act of 2021.

²⁶ See analysis at n. 9.

²⁷ Written Testimony of Patrice H. Kunes, Director, Center for Indian Country Development, Federal Reserve Bank of Minneapolis, United State Senate Committee on Indian Affairs, "Lending Opportunities: Opening the Door to Homeownership in Indian Country+", October 16, 2019 (hereafter CICD Lending Opportunities), p. 8.

²⁸ CICD Lending Opportunities, p. 8.

²⁹ U.S. Commission on Civil Rights, Broken Promises report, p. 1. (See n. 1 for full reference.)

³⁰ HUD Tribal Area Study, p. 127.

³¹ U.S. Commission on Civil Rights, Broken Promises report, p. 149. (See n. 1 for full reference.)

- Expand the financial capacity of Native community development financial institutions and other tribal institutions;
- Eliminate barriers to expanded use of Federal home ownership programs in Indian Country;
- Simplify housing development on tribal land; and
- Improve the availability of data on Indian Country and Indian Country programs.

Expand the Financial Capacity of Native Community Development Financial Institutions and Other Tribal Institutions

Native community development financial institutions, or Native CDFIs, offer well-tailored and culturally appropriate lending products in Indian Country. Encouragingly, the number of Native CDFIs has quadrupled in the past two decades, driven by tribal community members' and leaders' interest in taking charge of their own financial futures. The presence of Native CDFIs in a community is correlated with credit score improvements for those communities' hardest-to-serve borrowers.³²

The potential impact of Native CDFIs is limited by the availability of long-term capital, however. In a Minneapolis Fed survey of Native CDFIs in 2017, respondents reported that a lack of access to financial resources meant there was significant unmet demand for their products and services, including for homebuyers.³³ The limited access to secondary markets for mortgages described above constrains the capital and liquidity available to Native CDFIs.

In the spirit of expanding the availability of financial resources, depository institutions can consider working with Native CDFIs or other tribal institutions to develop pathways to home ownership. In September 2020, the Board of Governors of the Federal Reserve System unanimously voted to approve an Advance Notice of Proposed Rulemaking (ANPR) on the Community Reinvestment Act (CRA).³⁴ The CRA ANPR explicitly addresses a range of capital and credit challenges in Indian Country and, in particular, discusses options for encouraging more community development activity through mission-oriented financial intermediaries, including Native CDFIs.

A pilot conducted under the USDA Single Family Housing Direct Home Loans program, also known as Section 502, demonstrates the potential for leveraging Native CDFIs' strengths, such as deep community relationships and a pipeline of potential homebuyers, within existing programs. The Section 502 program, while not targeted at Indian Country, can support rural home ownership in Indian Country by guaranteeing mortgages for borrowers who cannot easily find conventional mortgage financing. In one year, two Native CDFIs working in partnership with the USDA deployed about \$2 million worth of mortgage loans across two South Dakota reservations. The pilot deployed about 50 percent more loans than had been made on the same reservations over the prior decade.³⁵

Eliminate Barriers to Expanded Use of Federal Home Ownership Programs in Indian Country

The Federal Government offers multiple Federal home ownership programs for Indian Country and rural America, including the Section 184 and Section 502 programs and the U.S. Department of Veterans Affairs' Native American Direct Loan program. However, institutional challenges limit the usage of these programs to meet their intended purpose of expanding home ownership among Native Americans and in rural areas. Eliminating these barriers and expanding the usage of these programs, particularly by the traditional lenders that provide the majority of mortgages, is crucial to growing home ownership in Indian Country.

Some of these barriers result from lenders' hesitancy to work on leasehold mortgages, delays in the TSR process, or insufficient technical expertise among lenders to navigate complex Federal programs. Other issues cut across programs. For example, tribal housing professionals describe a lack of appraisers familiar with best practices for valuing properties on tribal lands. Since multiple agencies have programs that would be improved by addressing these issues, CICD recommends that

³² Michou Kokodoko, Valentina Dimitrova-Grajzl, Peter Grajzl, and Joseph Guse, "Native CDFIs Improve Credit Outcomes for Indian Country Residents", Federal Reserve Bank of Minneapolis, April 28, 2021.

³³ Michou Kokodoko, "Findings From the 2017 Native CDFI Survey: Industry Opportunities and Limitations", CICD Working Paper 2017-04, Federal Reserve Bank of Minneapolis, November 28, 2017, p. 16.

³⁴ Board of Governors of the Federal Reserve System, Community Reinvestment Act Proposed Rulemaking web page.

³⁵ CICD analysis of data obtained from the South Dakota Native Homeownership Coalition.

these agencies work together—ideally, in partnership with representatives from the lending community, tribal governments, and GSEs—to find solutions and provide guidance for housing professionals in Indian Country working across multiple funding streams, and leverage resources from mainstream financial institutions.

Simplify Housing Development on Tribal Land

Helping tribes regain stewardship of their lands is critical to continued housing development. The Helping Expedite and Advance Responsible Tribal Home Ownership (HEARTH) Act of 2012 created a process for tribes to assume additional control of trust land management. Tribes across the United States have used the HEARTH Act to set up their own processes for furthering development on trust lands. Our Tribal Leaders Handbook on Homeownership details case studies of how the HEARTH Act can make a big difference for tribes.³⁶

For tribes with relatively few financial resources, however, the HEARTH Act has more limited benefits. Sufficient funding is not available through the HEARTH Act itself to fund the administrative capacity necessary for taking over trust-land management from the BIA, and the cost is simply too high for many tribes. The BIA's website lists only 56 tribes as of 2020 that have received approval for at least one aspect of tribal leasing regulations; about a third of these approvals apply to transactions for residential developments.³⁷

Improving the BIA's TSR process for tribes that are not able to access the HEARTH Act's opportunities would simplify the process of development on trust lands. For example, TSRs must be certified as up-to-date before development can take place, but parties looking to build on trust land or simply transfer ownership cannot currently turn to a website to file or track important TSR-related documents or requests. Significant steps in the process still rely on in-person interactions and must be carried out using paper. With better collection and reporting of data, and other practical improvements, Federal policy and practice could change to reduce TSR-related delays. In 2020, CICD produced specific recommendations on options to shorten the TSR process to improve home ownership.³⁸

Better interagency coordination and a focused effort to simplify requirements for projects in Indian Country that use multiple funding streams could increase the impact of Federal dollars intended to support housing construction and development. Further work could build on the legacy of attempts like the One Stop Mortgage Initiative and legislation like NAHASDA to support tribal sovereignty and streamline complexities.

Improve the Availability of Data on Indian Country and Indian Country Programs

Because better data lead to better policy decisions, there is a clear need for an improved knowledge infrastructure when it comes to Indian Country. Data on programs that serve Native Americans are difficult to find in publicly available venues. For example, both policymakers and prospective homeowners lack data on the timeliness of the TRS process. On a positive note, recent legislation will require HUD to report its progress on accelerating lender applications under section 184. More readily available data on USDA's Section 502 loan program and the U.S. Department of Veterans Affairs Native American Direct Loan would also facilitate more efficient use and procedural improvements to those programs.

More generally, data on Indian Country and Native Americans are often insufficient to assess effects of programs and policies or even to track changes in population-level well-being. With sample sizes too small to facilitate accurate estimates, American Indians and Alaska Natives are too often "asterisked" or grouped in an "other" category in published reports. To address this, CICD will soon release a regularly updated dashboard of labor market conditions for American Indians and Alaska Natives throughout the country.

Illuminating economic conditions in Indian Country will require a large shared effort, and in some cases significant commitments of financial resources to obtain sufficient statistical samples. This would have the welcome effect of helping community members, researchers, tribal leaders, and Federal policymakers track and assess the impact of public policy and other interventions.

Conclusion

Underinvestment in critical infrastructure, restricted access to credit, and an inadequate housing supply hinder Native Americans from the intergenerational

³⁶ See n. 17.

³⁷ BIA, U.S. Department of the Interior, HEARTH Act of 2012.

³⁸ James Robert Colombe, "Shortening the TSR Timeline: A Proposal To End Delays That Hinder Native Homeownership", Federal Reserve Bank of Minneapolis, September 9, 2020.

wealth-building that home ownership makes possible in the United States, and even from the basic benefits of stable, adequate housing.

Recent history shows that Indian Country is beginning to write a new chapter based on increased support for tribal sovereignty and economic growth. The financial gaps between Native Americans and the rest of the U.S. population remain large, but the expanding capacity among tribal governments, Native-led financial institutions, and community-based nonprofits shows that the potential for growth is immense. With stronger and easier-to-navigate Federal policy, housing, and economic development in Indian Country will not only continue but accelerate.

PREPARED STATEMENT OF MICHAEL GOZE

CHIEF EXECUTIVE OFFICER, AMERICAN INDIAN COMMUNITY DEVELOPMENT CORPORATION (AICDC), MINNEAPOLIS, MINNESOTA; CHAIRMAN, BOARD OF COMMISSIONERS, HO-CHUNK HOUSING AND COMMUNITY DEVELOPMENT AGENCY (HHCA), TOMAH, WISCONSIN; AND MEMBER, HO-CHUNK NATION OF WISCONSIN

MAY 27, 2021

Good Morning, I am Michael A. Goze a member off the Ho-Chunk Nation of Wisconsin. I live in Minneapolis, MN. I am the CEO of the American Indian Community Development Corporation. I also serve as the Chairperson for the Ho-Chunk Housing and Community Development Agency located in Tomah, WI. Being involved with both the Twin Cities Metro Urban area and the Ho-Chunk Nations low income housing options my perspectives are meant address concerns of both rural and urban American Indian Communities.

It is my honor to provide testimony to this Committee this morning. In looking at the current situation regarding safe, standard, and affordable housing on Tribal Trust land or within the rural and Urban settings throughout our Country. American Indians fall far short of the national average in the percent of home ownership when compared to their white counterparts. There are several reasons for this disparity.

First, access to mortgage products that meet the specific needs of the American Indian population. The section 184 Indian Home Loan Guarantee Program is a home mortgage product specifically designed for American Indian and Alaska native Families, Alaska villages, Tribes, or Tribally designated housing entities. Congress established this program in 1992 to facilitate home ownership and increase access to capital in Native American Communities. Although this mortgage product has had some impact it has not equalled the playing field. The number of lending institutions that offer the Section 184 loan product are limited to a select few. I would suggest that the Section 184 or a like loan product would be better served if it was provided through the American Indian Community Development Financial Institutions (CDFI's) that are a great asset to Indian Country both on Reservations and in the Urban Areas. The CDFI's provide a myriad of services all dedicated to the financial success of its clients.

The work of a CDFI in home ownership is providing Homebuyer education, Homebuyer counseling, Credit repair, Budgeting, responsibilities of Homeownership and other aspects of this sometimes daunting process. A large number of American Indian clients seeking home ownership are first time homeowners looking to provide family stability enhancing Community stabilization making these services important to their individual success. I believe that this relationship would of benefit through the mortgage process. Currently their clients make applications for mortgages with other lending institutions sometimes these are online applications this can be a totally different experience that have had in the past. To provide an opportunity for American Indian CDFI's to have a mortgage product like the section 184 will complete the process and provide a higher level of success. American Indian CDFI's given the opportunity could provide a better level of service and gain the knowledge and financial benefits of the mortgage process. Making this a win-win for both the client and the CDFI.

Second, affordability. Income levels within the American Indian communities have a substantial effect on the amount a home loan available to them. With todays housing prices the availability of homes are scarce in the lower prices ranges. Having a forgivable deferred loan product that will be reduced over time would be a great investment into the stabilization of American Indian Families and Communities. An example would be a reduction in the principle at 5 years, 10 years and would be forgiven totally at 15 years. Data supports that home ownership is crucial in the stabilization of families. Having a safe, standard, and affordable home creates the foundation that promotes better outcomes in areas of education, health, and finan-

cial stability. Our homes can be the single greatest financial asset in one's life, making way for families to continue to thrive vs. just survive in our current economic climate. By investing into our American Indian families via home ownership we can create an immediate impact into the lives of our youth, adults, and elders. This type of investment creates immediate impact and also provides long term impact in the stabilization of Families and Communities.

Thirdly, Land Trust model. Providing capital for an American Indian Land Trust would be another tool in making home ownership achievable to many more potential home owners. It also would provide the American Indian communities to reclaiming land that was once part of Indian Country. In Minneapolis we have had much success in using the Land Trust model to reduce the mortgage loan amount by having the land owned through a Land Trust. This provides the ability to increase the buying power of the homeowner by having the land held outside of the mortgage. It provides a monthly benefit to the homeowner is a reduced monthly payment. In a Land Trust model, the appreciation is shared by a predetermined amount should the property be sold. The Land Trust model can also be beneficial in continued housing affordability for the Community by the reinvestment of appreciation by the Land Trust.

Lastly, In today's times we need to use every financial opportunity to help American Indian families understand and relish in the benefits of home ownership. We need to use a number of new initiatives to make home ownership possible. We at AICDC have used several City, County, and State funding options including grants, deferred loans and other home ownership incentives. We have benefited for the Federal Home Loan Bank of Des Moines Native American Homeownership Initiative (NAHI) in providing downpayment assistance. We look to our Federal partners to help in providing opportunities to increase Homeownership to the American Indian Families throughout the Urban and Tribal lands of our great Country.

I thank you for your attention to this matter.

PREPARED STATEMENT OF ERIC SHEPHERD

EXECUTIVE DIRECTOR, SISSETON-WAHPETON HOUSING AUTHORITY, SISSETON, SOUTH DAKOTA; AND MEMBER, SISSETON WAHPETON OYATE

MAY 27, 2021

I'd like to thank Chairman Brown, Vice-Chairman Toomey, Senator Rounds, and the other Members of the Subcommittee for this opportunity to talk about Indian housing today. It has been an especially hard and challenging 15 months for those of us on the Sisseton-Wapeton Reservation in South Dakota. We were hit early and hard with the COVID pandemic at home and we are still working on recovery. Housing has been at the forefront of the recovery efforts, providing a safe place for our members to shelter and recover and managing the many new relief programs that you in Congress have provided to us.

A large part of our recovery effort at Sisseton-Wapeton involves looking past the pandemic and into the long-term status of Indian housing programs, both on our Reservation and the United States as a whole. The perennially inadequate funding and other program issues that existed prior to 2020 must now be addressed to assure the long-term sustainability of Indian housing for the first Americans. To put it more plainly, we all must understand something is wrong when the base level appropriation for the Native American Housing Assistance and Self-Determination Act (NAHASDA) has not been increased since the law was originally passed 25 years ago. As Congress and the new Biden administration focuses on helping American rebuild its dilapidated infrastructure and recalibrate its housing assistance programs, Indian Country and Indian housing must also be given fair consideration.

I know the Subcommittee has a particular interest in the HUD Section 184 program operating in Indian Country. I can tell you that the 184 program has had limited impact on reservation lands held in trust by the United States—while a few individuals have been able to secure leasehold mortgages under the program, most of the funds go to off-reservation lands and urban areas where banks and lenders are more comfortable with providing traditional mortgages. The situation has not been helped with HUD's recent revision or the program regulations that send the program back in time before the 184 Act was passed in 1992—requiring underwriting provisions and fees that are not affordable or helpful to developing new housing on reservation lands.

I would like to call the Subcommittee's attention to a number of other important issues that Congress should address regarding Indian housing programs:

1. *We Appreciate the Emergency Funds Received to Date and Need To Receive a Fair Share of the New Housing Infrastructure Funds as Well:* The CARES Act, the Consolidated Appropriations Act of 2021, and the American Rescue Plan, have all included much needed emergency funds to support Indian Housing operations during the pandemic. We do appreciate that Congress has allocated money to alleviate the short-term effects of the COVID-19 pandemic. We can confirm that this money had an immediate and vital impact on preserving and protecting housing services and resources in our tribal communities. Our proposal is to now address the more long-term and sustainable solutions to improving Indian housing. The recently proposed American Jobs Plan includes \$231 billion to improve and produce more housing and housing infrastructure—including a proposed amount of at least \$50 billion to renovate and rehabilitate federally assisted housing. *We are asking you to help insure that, if new infrastructure legislation is passed, Indian housing continue to get its fair share of the funding (e.g., a 5-percent set-aside for Indian housing would be \$2.5 billion).* As you are aware, Federal programs have long-neglected Indian Country's need to maintain and improve its aging housing stock.

Housing needs in tribal areas remain the most severe in the nation and resources to address the problem have declined more rapidly than for other Federal housing programs. Katherine M. O'Regan, Assistant Secretary for PD&R, HUD, Report in the Forward (see below).

Tens of thousands of new units are needed. Thousands of existing units, some which are currently boarded up because of lack of funding and severe methamphetamine contamination, are also in need of substantial rehabilitation. The simple fact is that \$2,500,000,000 (two-billion five-hundred million dollars) of additional new funding is needed if these conditions are going to be effectively addressed. Tribes and their TDHEs have the capacity to build and rehabilitate their housing. Most observers know and most studies show, including the recent "Housing Needs of American Indians and Alaska Natives in Tribal Areas: A Report From the Assessment of Americans Indian, Alaska Native, and Native Hawaiian Housing Needs", by HUD PD&R and the Urban Institute, January 2017 (the Report),¹ that TDHEs have, or if needed can quickly reacquire, the capacity to build housing and other related infrastructure construction on this scale. TDHEs are prepared to quickly gear up to produce a substantial number of new units. This will help tribes and Alaska villages generate for their communities and the country post-pandemic economic recovery—just as they did successfully 10 years ago after the Great Recession with American Recovery and Reinvestment Act (ARRA) moneys.

Tribes have demonstrated the capacity to construct and rehabilitate housing for low income families at substantial levels under the NAHASDA framework. Their ability to effectively use an unexpected injection of funding under the American Recovery and Reinvestment Act (ARRA) of 2009 toward these ends in a very limited time period is particularly strong evidence supporting this conclusion. Page 10, Executive Summary of the Report.

It is our recommendation and opinion that these new funds should be evenly divided between HUD's Indian Housing Block Grants (IHBG) and IHBG Competitive Grants. Using the existing IHBG program to deliver some of this money would allow some of the grants to be allocated using the NAHASDA allocation formula. By this method, half of the money would be divided up among all the tribal and Alaska Native TDHEs. Then using IHBG Competitive Grants, HUD can award the other half of the funds to the those TDHEs that have the greatest need, but who also have the capacity required to quickly and effectively deliver this badly needed housing and to contribute to economic resurgence. This is exactly how TDHEs were successful when called upon a decade ago to use ARRA moneys.

2. *Reauthorization and Expansion of Drug Elimination Program* (42 U.S.C. 11908)—This HUD program was highly successful in assisting tribes with funds to prevent and mitigate criminal and drug activity in their communities, but it has not been reauthorized since 2003 and monies have not been appropriated since 1999. With the renewed problems of methamphetamines and other drugs requiring tribally designated housing entities to expend large portions of their NAHASDA housing funds to clean-up meth and drug contaminated homes, *we believe that the program should be reauthorized, new funds be appropriated, and eligible uses of funds expanded to include methamphetamine and toxic drug clean up.*

3. *Reauthorization of Nahasda*—We also want to recommend, if the opportunity arises, that NAHASDA be reauthorized. Such formal reauthorization is long overdue (NAHASDA has not be reauthorized since 2008). And if this should happen, we continue to join with most other tribes, TDHEs and national and regional native hous-

¹The Study and final Reports are available for download at: <https://www.huduser.gov/portal/native-american-assessment/home.html>.

ing associations to advocate that the reauthorization modify the existing NAHASDA 30 percent rental payment rule.

If the Country fails now to address the plight of Indian housing, it would be disastrous to tribes and Alaska Native communities, and to those hundreds of thousands of Native people and families who suffer so greatly with overcrowded and severely substandard housing. Most tribal and Alaska Native people that today live in Indian areas, their governments and their TDHEs, have no other option but to look to the Federal Government for the housing funds that they so badly need. For the United States to continue, at this particular moment in history, to ignore these tribal needs would be nothing short of a tragedy and sadly yet another abandonment by the United States of longstanding concerns and obligations to tribal sovereigns, Indian people, and Alaska Natives.

Thank you again for the opportunity to submit this testimony. I would be glad to answer any questions the Subcommittee might have.

**RESPONSES TO WRITTEN QUESTIONS OF
SENATOR CORTEZ MASTO FROM DANTE DESIDERIO**

Q.1. In our discussion, you noted that the Federal Home Loan Banks have played a very limited role in investing with tribes. Do you have additional information on why tribes lack access to FHLBank investments and advances (loans)? Is it due to a lack of a local partner: a bank, a credit union, a housing finance agency, a Community Development Financial Institution? A lack of familiarity with the FHLBank system by the tribes? Or that the FHLBanks have not sought to serve tribes?

How can we make FHLBank resources and investments more accessible to tribes seeking housing, community development, and infrastructure investments?

A.1. Response not received in time for publication.

Q.2. The report, “The Higher Price of Mortgage Financing for Native Americans”, notes that as of 2012, nearly 30 percent of all mortgage loans given on reservation tracts were higher cost. This is three times the proportion of loans that are higher-priced than for any other racial or ethnic group in reservation tracts or tracts nearby.

Fannie Mae and Freddie Mac have a duty-to-serve manufactured homebuyers and rural communities. How are Fannie Mae and Freddie Mac supporting affordable financing for Native American communities?

A.2. Response not received in time for publication.

Q.3. Can you elaborate on the role of the Indian CDBG program to your tribes and its impact on affordable housing and community development?

A.3. Response not received in time for publication.

Q.4. Can you discuss the impact of the additional ICDBG funds allocated through the CARES Act? What was the impact of those funds on your tribes?

A.4. Response not received in time for publication.

**RESPONSES TO WRITTEN QUESTIONS OF
SENATOR CORTEZ MASTO FROM ADRIAN STEVENS**

Q.1. How have the Federal Home Loan Banks worked with the National American Indian Housing Council and your members?

A.1. The Federal Home Loan Banks have been a supporting partner directly to NAIHC for a number of years. Additionally, FHLB has been a regular presence at NAIHC hosted annual events, with both information booths and staff present to meet and learn from tribal housing professionals. The different branches of FHLB have provided varying levels of participation in a manner largely consistent with the levels of Native American tribes or communities within each branch’s footprint.

Q.2. Nearly all Federal Home Loan Bank investments require a local partner—a bank, a credit union, a housing finance agency, a Community Development Financial Institution. How accessible are

those partners for tribes who seek housing, community development and infrastructure investments?

A.2. Tribal communities have consistently been underbanked and underserved communities for decades. Many tribal communities still do not have a bank physically located in its area, which makes it difficult for many tribal members to access banking services in a manner many Americans take for granted. Over the past 20 years or so, Native CDFIs have begun to fill that gap, providing much needed services in these communities. FHLB has conducted some work with Native CDFIs but that outreach and subsequent investment in Native CDFIs can be improved, by both FHLB and other commercial and governmental banking institutions.

Q.3. The report, “The Higher Price of Mortgage Financing for Native Americans”, notes that as of 2012, nearly 30 percent of all mortgage loans given on reservation tracts were higher cost. This is three times the proportion of loans that are higher-priced than for any other racial or ethnic group in reservation tracts or tracts nearby.

A.3. Fannie Mae and Freddie Mac have a duty-to-serve manufactured homebuyers and rural communities. How are Fannie Mae and Freddie Mac supporting affordable financing for Native American communities?

Fannie Mae and Freddie Mac have been including more tribal organizations and professionals in their outreach and consultation efforts. These efforts improve both Fannie and Freddie’s understanding of obstacles, needs and opportunities in Indian Country, and also improves the awareness of Fannie and Freddie services among our tribal housing professionals. In addition to understanding what mortgage and lending products Fannie and Freddie can provide directly to tribal communities, Fannie and Freddie have also been working to better understand how to invest in existing Native CDFIs and other banking institutions active in tribal communities, including accepting various Federal loan guarantee products through the secondary market.

Like many commercial and Government sector initiatives aiming to improve services to underserved communities, NAIHC would urge these organizations (and Congress where appropriate) to consider services to tribal communities specifically as tribes are often one of the last “underserved” markets to be affected by these initiatives when the various underserved demographics are targeted all together.

Q.4. The Center for Indian Country Development’s report, “The Higher Price of Mortgage Financing for Native Americans”, finds that about 31 percent of Native Americans who bought homes on reservation land during the study’s timeframe bought a manufactured home. The report finds that manufactured home loans are much more likely to be high-cost loans. An article in the *Seattle Times* in 2015 reported that a Clayton Homes sales person told a Navajo woman, shopping for a manufactured home, that Vanderbilt was the only lender that finances on her reservation. That was untrue.

A.4. That article was part of a series of articles on predatory manufactured housing financing in the *Seattle Times* from 2015 and

2016. They found that Native Americans were targeted by steering practices by manufactured home sales people before the Consumer Financial Protection Bureau banned the practice.

Unfortunately, in 2018, Congress reversed the prohibition on steering and permitted manufactured home salespeople to recommend lenders affiliated with the manufactured home manufacturers.

Have you seen a return of steering to affiliated—and high-cost lenders—when people buy a manufactured home? What loan products are available to homeowners seeking to purchase a manufactured home on tribal lands?

While I am not aware of any specific instances of predatory steering to high-cost lenders, the overall lack of lending or mortgage options across Indian Country would make the practice fairly easy to carry out. Many Native American customers are likely unaware of other loan options that may be available to them. The marketing of existing, competitive loan products is fairly scarce in Indian Country as sparsely populated rural areas do not often provide many lenders with a good return on their marketing investment.

RESPONSES TO WRITTEN QUESTIONS OF CHAIR SMITH FROM ALENE TCHOURUMOFF

Q.1. How can Congress support positive emerging trends in housing in Indian Country?

A.1. The Native American Housing Assistance and Self Determination Act of 1996 (NAHASDA) represented an important turning point in the Federal Government’s approach to housing in Indian Country.

NAHASDA empowered tribal governments and other Native leaders to pursue their own visions for housing in their communities. Today, two conditions present opportunities for Congress to build on the capacity for ambitious housing, community, and economic development among tribal nations and their partners.

First, Native community development financial institutions (CDFIs) are a relatively recent and promising innovation whose impact can grow further still. Lack of capital access in Indian Country comprises barriers not just for the success of potential homeowners or housing developers, but also for entrepreneurs and households. While Native CDFIs’ work cannot single-handedly rectify this problem, research from the Federal Reserve Bank of Minneapolis demonstrates Native CDFIs’ efficacy and suggests that many Native CDFIs would be in a position to quickly meet even more credit needs if they had additional capital.

Second, funding for COVID–19 relief has brought large amounts of resources to Indian Country. Policy changes could reduce delays or other hindrances caused by the longstanding barriers to development that are described below. Funding parameters could also support innovative practices that reflect the unique needs of tribal communities. For many Native nations, a more robust economic future is delayed by a lack of access to capital and funding opportunities.

Increase the Capacity of Native CDFIs

Congress can support access to credit by bolstering resources for the formation and success of Native CDFIs. Credit is foundational to home ownership and housing stability. Our research suggests Native CDFIs improve access to credit for people in Indian Country.¹ The number of Native CDFIs quadrupled over the past 20 years, from 16 in 2001 to more than 70 in 2021.²

In some cases, support for Native CDFIs could mean providing better access to resources that already exist. For example, the U.S. Department of Agriculture (USDA) Section 502 program offers home loans to low- and very low-income rural borrowers. While there are many potential 502 borrowers in Indian Country, the program has had difficulty reaching tribal borrowers, especially on trust land.

A recent pilot had the USDA partner with Native CDFIs in South Dakota to increase Section 502 lending on two reservations. In a single year, the partnership led to 50 percent more Section 502-guaranteed loans on those reservations than had been made in the previous decade. That pilot demonstrated Native CDFIs' potential for increasing home ownership if Federal agencies work with them as intermediaries.

Our survey research suggests that Native CDFIs can deploy more resources to Indian Country residents via their existing lines of business. Surveyed Native CDFIs reported more demand for their services than their current financial capacity could meet.³

Another indication of the robust demand for Native CDFIs' services comes from the Oweesta Corporation, an intermediary for about 30 of the Nation's Native CDFIs. Oweesta's member Native CDFIs reported \$19,483,123 in housing loans in 2020. Around \$13 million was for home purchases, \$2 million for construction, and \$4 million for home repair. Several of the Oweesta-member Native CDFIs have begun offering new home loan products in response to an increase in demand.

Increased resources for Native CDFIs could provide more Native families with a path to home ownership. But even with more dollars at their disposal, Native CDFIs will not be able to fill the role in Indian Country that thousands of lenders play for the broader United States. For larger-scale progress to be made, Native CDFIs' best practices and knowledge could be paired with the resources of the conventional lenders in the U.S. mortgage market.

Some Center for Indian Country Development (CICD) contacts specifically cite barriers in accessing secondary markets as an important constraint on the ability of conventional lenders and Native CDFIs to invest in housing in Indian Country. Congress could create an expectation for Fannie Mae and Freddie Mac, or other Federal actors like the Federal Home Loan Banks, to develop better processes for incorporating Indian Country into the secondary market.

¹ Kokodoko, Michou, and Peter Grajzl, Valentina Dimitrova-Grajzl, and Joseph Gruse. "Native CDFIs Improve Credit Outcomes for Indian Country Residents". Federal Reserve Bank of Minneapolis, April 2021.

² Ibid.

³ Kokodoko, Michou. "Findings From the 2017 Native CDFI Survey: Industry Opportunities and Limitations". Federal Reserve Bank of Minneapolis, November 2017.

Providing direction or setting targets could accelerate avenues that are currently opening up to increased Indian Country mortgage activity. For example, new approaches could be developed via the “duty-to-serve” processes of Fannie Mae and Freddie Mac. Duty-to-serve requires these two Government-sponsored enterprises, or GSEs, to develop plans to improve the flow of mortgage investments to certain underserved markets.

Currently, Fannie Mae’s process requires a memorandum of understanding to be approved by each participating tribal government. Tribal laws must meet Fannie Mae’s requirements for protecting borrowers and lenders. Four tribes have signed agreements with Fannie Mae to bring that GSE’s mortgage products to their respective nations.

While Fannie Mae offers model tribal lending procedures, pursuing MOUs on a tribe-by-tribe basis will likely take many years to achieve scale. Additional resources for outreach or technical assistance could increase the number of tribes pursuing such agreements—and the number of lenders interested in working with them.

As secondary markets open to Indian Country, Native CDFIs could serve important roles as both lenders and intermediaries. Conventional lenders interested in doing more business in Indian Country could benefit from engaging with Native CDFIs and understanding the best practices Native CDFIs have developed for serving markets within Native nations.

Streamline Access to Relief Funding

Historic amounts of Federal money are supporting local governments’ pandemic recovery efforts. However, because of the long-standing housing needs in Indian Country, this targeted Federal funding should be a floor and not a ceiling. That is, tribal governments, housing developers, nonprofits, Native CDFIs, and other institutions with bold and high-impact ideas in Indian Country should not be barred from accessing Federal funding streams to support those ideas if they cannot be pursued with Indian Country-specific dollars alone.

As it stands, nontargeted housing-related funds are often unavailable to tribes. Tribes are statutorily restricted from accessing some housing dollars, even though State-level allocations may be calculated, in part, based on the Indian Country population in a State. For example, tribes typically cannot directly receive Community Development Block Grants or housing choice vouchers.⁴

These changes were a part of NAHASDA. That legislation aimed to support tribal sovereignty, in part by creating programs targeted to Indian Country, like the Indian Housing Block Grant (IHBG). While tribes do benefit from Federal resources via NAHASDA that are specifically designated for Native nations, these resources are too often an inadequate substitute for access to the broader set of Federal supports.

The inflation-adjusted value of IHBG’s funding has decreased over time and, even if it had kept pace with inflation, would not

⁴Jones, Katie. “The Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA): Background and Funding”. Congressional Research Service, November 2015. P. 2.

be able to fully address housing needs in Indian Country.⁵ Furthermore, some of the dollars distributed through tribal-specific programs are distributed on a competitive basis and may be inaccessible to tribes with more limited capacity for application processes.

Beyond considering tribes' eligibility for Federal dollars, the Federal Government should continue to examine and address barriers to efficiency that tribes and their partners encounter when they try to leverage dollars from multiple sources in support of housing projects. Environmental reviews are often cited as one particular area where a lack of coordination across Federal programs can add cost and delays to Indian Country projects.⁶

In 2015, the U.S. Department of Housing and Urban Development (HUD) convened a working group to address the environmental-review issue. The issue is still cited as a problem by some tribal leaders in the CICD network.⁷ Development in Indian Country could be facilitated by more streamlined procedures, like a central application tribal stakeholders could complete for multiple housing programs at once while uploading program-specific requirements as necessary.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR CORTEZ MASTO FROM ALENE TCHOURUMOFF

Q.1. Can you give us a sense of the costs we should consider when providing financing for new housing production on tribal lands?

A.1. Native nations' history, geography, and access to credit can raise costs for developers working in Indian Country. Some of these costs are unavoidable—there are no short-term workarounds for Indian Country's long-underdeveloped infrastructure, for example. Others, like titling issues, may be addressed through policy reforms that are discussed elsewhere in this document.

Infrastructure

Infrastructure like water systems, sewage treatment facilities, electricity, and roads was one the most-cited response by tribal leaders surveyed in 2017 about barriers to Indian Country development.¹ As of 2015, the unmet need in Indian Country for safe drinking water and adequate wastewater treatment alone amounted to about \$3 billion.²

This means housing projects in Indian Country may be at a disadvantage on a cost-per-unit basis relative to other projects aimed at supporting low-income housing. Additionally, the time required

⁵Tchourumoff, Alene. "Housing for Native Americans: Review of Federal Programs, Barriers, and Opportunities". Written testimony provided for United States Senate Subcommittee on Housing, Transportation, and Community Development of the United States Senate Committee on Banking, Housing, and Urban Affairs, May 2021. P. 5.

⁶"Native American Housing: Additional Actions Needed To Better Support Tribal Efforts". U.S. Government Accountability Office, March 2014. P. 16.

⁷Nancy G. Pindus, Thomas Kingsley, Jennifer Biess, Diane Levy, Jasmine Simington, and Christopher Hayes, "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". HUD, Office of Policy Development and Research, January 2017 (hereafter HUD Tribal Area Study). Pp. 130–132.

¹HUD Tribal Area Study. P. 127.

²"Broken Promises: Continuing Federal Funding Shortfall for Native Americans", Briefing Report, U.S. Commission on Civil Rights, December 2018. P. 86.

to build out necessary infrastructure to accommodate housing developments in Indian Country may further delay the realization of home ownership for tribal families. Policies aimed at incentivizing Indian Country investment must reflect this reality. Otherwise, competitive or formula-based funding may actually disadvantage projects on tribal land.

Title and Appraisals

Costs related to the titling process are well-documented. My written testimony contains a few ideas for improving the titling process, including more support for tribes interested in pursuing the approach enabled by the Helping Expedite and Advance Responsible Tribal Homeownership Act.³

The titling process and appraisal situation can extend the timeline for completion of Indian Country projects in ways that disadvantage them. The Bureau of Indian Affairs (BIA) title status report (TSR) process is frequently cited as a hurdle for loans in Indian Country. A 30-day timeline for BIA title processing is a reasonable goal and could ease lending in Indian Country.

Steps have been taken to improve the TSR process, but data are not available to gauge any progress. Anecdotal evidence suggests there is variation across BIA offices, and that the process can sometimes take more than 6 months.⁴

In addition to titling, we often hear about delays or extra costs incurred due to the appraisal process. Real estate markets in rural areas typically feature fewer transactions than in metro areas. Thus, the appraisal methods that work in more densely populated areas can be less effective. Things become even more complicated when adding in the infrastructure and unique land-ownership structure in Indian Country.

Cost-based appraisals, which focus on the value of improvements on a piece of property, are a viable alternative. Some organizations are already attempting to popularize this type of appraisal,⁵ which can circumvent some of the most common barriers to more-prevalent appraisal techniques' application in Indian Country. Appraisers are usually empowered to choose the cost-based-appraisal method. But we often hear that appraisers are untrained in or unwilling to apply the technique.

Access to Credit

Credit is generally harder to come by and more expensive in Indian Country. CICD research shows that consumers looking for a mortgage pay higher prices on reservations.⁶ Testimony from Indian Country leaders indicates that credit is also often more expensive for tribal governments, developers, and small businesses. Evidence from loan guarantee programs like HUD's Section 184 suggest that the higher-interest costs are not entirely based on objec-

³Tchourumoff, Alene. "Housing for Native Americans: Review of Federal Programs, Barriers, and Opportunities". P. 9.

⁴Colombe, James. "Shortening the TSR Timeline: A Proposal To End Delays That Hinder Native Homeownership". Federal Reserve Bank of Minneapolis, September 2020.

⁵See, for example, Fannie Mae's "Appraising Properties on Tribal Lands".

⁶Feir, Donna, and Laura Cattaneo. "The Higher Price of Mortgage Financing for Native Americans". Federal Reserve Bank of Minneapolis, September 2019. P. 1.

tive measures of risk and may be influenced by lenders' misperceptions of risk in Indian Country investments.

The increased cost of credit impacts borrowers at an individual level, as they pay money in interest that could be spent elsewhere. Evidence suggests that the Native–White wealth gap in the United States is high, and that the home ownership gap contributes to this disparity.⁷ At an institutional level, Indian Country's ability to leverage Federal and other resources is limited, because the costs of debt service in Indian Country are higher. Higher-cost, harder-to-find credit can harm privately financed projects, and also means the reach and efficiency of Federal programs that rely on public–private collaborations may be limited.⁸

Q.2. What policy recommendations for the manufactured-home market should we consider to lower the cost of mortgages for home buyers, especially Native Americans, purchasing a manufactured home?

A.2. Manufactured housing is one of the largest sources of so-called “naturally occurring affordable housing.”⁹ Advances in manufacturing and transportation make the sector well-positioned to play a part in the future housing market. Even accounting for the costs of transporting and installing a foundation, a typical manufactured home can offer significant price advantages over site-built homes.¹⁰

However, higher interest rates for manufactured-home owners' mortgages eat away at these savings. And other procedural barriers and possible market imperfections can make the purchase of a manufactured home unnecessarily difficult.

Like many people in rural areas, would-be purchasers of manufactured housing face a number of challenges in obtaining financing. Standard appraisals can be an issue, due to a lack of volume of comparable sales, and many lenders fail to invest significant resources in pursuing business in smaller markets for smaller-dollar loans. Manufactured-home buyers seeking loans face some outdated perceptions about the quality of manufactured housing itself, and often need to pursue chattel loans as opposed to standard mortgages. Lenders and State housing finance agencies report difficulties in or are unaware of options for selling manufactured home loans to a secondary market—when such options even exist.

Evidence suggests that some of the barriers to purchasing homes and building wealth for some manufactured home buyers are even more present in Indian Country. These issues can be addressed—and, if they are, consumers may enjoy greater access to a potential source of affordable home ownership.

Loan Type and Quality

Manufactured homes are distinct from other types of housing in that they may be purchased on credit with either a chattel loan or

⁷ Ibid. P. 6.

⁸ See, for example, Freddie Mac's examination of Low Income Housing Tax Credit (LIHTC) usage in Indian Country. Freddie Mac, the largest funder of affordable housing in the United States, did not finance a LIHTC investment in Indian Country until 2019, 35 years into the program's existence.

⁹ “Factory-Built Housing for Affordability, Efficiency, and Resilience”. Evidence Matters, HUD, Winter/Spring 2020. Accessed July 13, 2021.

¹⁰ “Manufactured Homes: An Affordable Housing Option”. *Tribal Leaders Handbook on Homeownership*, Chapter 11, Federal Reserve Bank of Minneapolis, 2018.

a mortgage. Chattel loans apply only to the physical structure of the home, whereas a mortgage encompasses the land underneath the home. Chattel loans have fewer protections for borrowers,¹¹ are more expensive,¹² and are subject to much higher denial rates.¹³

Chattel loans may still be advantageous in some situations where a borrower does not own the land underneath a home. However, data show that borrowers of color or Native Americans are more likely to receive a chattel loan, even when they own the land underneath the home.¹⁴ By one estimate, as many as 53 percent of chattel loan recipients may have been eligible for a standard mortgage.¹⁵

In many other cases, including in Indian Country, a borrower may hold a lease on the land underneath a manufactured home. Their leaseholder rights can last longer than standard mortgage-loan terms—that is, a leaseholder might be given a 99- or 50-year lease, longer than the standard 30-year mortgage term. This makes the difficulties in attaining a mortgage even more confounding.

Market concentration may raise prices for borrowers and limit lending volumes. Borrowers have relatively few options for structures and loans in the manufactured-housing market.¹⁶ As of 2016, the four most-active manufactured-home loan companies in Indian Country captured 80 percent of the total market¹⁷—and two of those companies are owned by a single firm, Clayton Homes.¹⁸ In some cases, lenders will only work with specific manufactured-housing dealers.¹⁹

Whether owing to the market concentration or some other reason, manufactured-home owners are also much less likely to refinance their mortgages compared to site-built-home owners, even when market conditions are very favorable for refinancing (like they are now).²⁰

Site-built-home owners in metro areas may have become accustomed to receiving regular, unsolicited offers to refinance their homes. Manufactured-home owners, on the other hand, may struggle to find a lender willing to work with them on a refinance.

This phenomenon is worth further study. The lower refinance rate may be partially due to manufactured-home loans' smaller size, which reduces the potential savings from a lower interest rate relative to the origination costs of a refinance.²¹ However, the lower refinance rate may be due to factors mentioned in this response—including market concentration, conventional lenders' un-

¹¹ Ibid.

¹² Ibid.

¹³ Russell, Jessica, Nora O'Reilly, Karl Schneider, Nicolas Melton, Nick Schwartz, and Sam Leitner. "Manufactured Housing Finance: New Insights From the Home Mortgage Disclosure Act". Consumer Financial Protection Bureau, May 2021 (hereafter CFPB Manufactured-Housing Study). P. 5.

¹⁴ CFPB Manufactured-Housing Study. Report summary website.

¹⁵ See n. 9.

¹⁶ See n. 14.

¹⁷ Johnson, Kevin, and Richard Todd. "Manufactured-Home Lending to American Indians in Indian Country Remains Highly Concentrated". Federal Reserve Bank of Minneapolis, December 2017.

¹⁸ Ibid.

¹⁹ See n. 10.

²⁰ CFPB Manufactured Housing Study. P. 21.

²¹ Ibid.

familiarity with the manufactured-housing market, or a lack of secondary market options for manufactured-home loans.

Lack of Access to Secondary Markets

A lack of access to secondary markets is often cited as a downward pressure on the manufactured-housing market.²² Fannie Mae and Freddie Mac both curtailed their purchases of these loans in the 1990s.²³ Both GSEs are exploring pathways to supporting manufactured-home markets via their duty-to-serve processes, and assertive action on their part may improve borrowers' options.

Some avenues to the secondary market exist already for manufactured-home owners who are able to pursue a mortgage, such as through Fannie Mae's MH Advantage program.

More generally, Fannie Mae has recently begun signing memorandums of understanding with tribes to expand access to the secondary market for some home loans made on trust land. Thus far, Fannie Mae has signed such memorandums with four tribes.²⁴ The memorandums require tribes to establish certain ordinances and processes related to housing to protect lenders and borrowers.

If tribes are able to bring Fannie Mae's mortgage products onto their lands, a door may be opened for more lenders to serve manufactured-home buyers. Additional resources, like outreach or technical assistance, could increase the number of tribes pursuing such agreements.

Tribes and states can also support the manufactured-housing market by offering clear guidance on how and when manufactured housing can be treated as real property. For example, in New Hampshire, lenders can simply create and perfect a security interest in a manufactured home, thus allowing manufactured-home owners to receive the same foreclosure protections as other single-family-home owners.²⁵

Lenders of chattel loans do not currently have a route to sell their loans on the secondary market. Fannie Mae proposed a pilot program for chattel loans at one point in the duty-to-serve planning process, but this pilot was ultimately left unpursued. The idea is worth exploring again. The GSEs could consider an Indian Country specific focus for such a pilot, or expand its scope. In either scenario, the GSEs should be able to design a pilot that provides significant value to chattel-loan borrowers who present minimal additional risks relative to conventional mortgage borrowers.

Loan Denial and Interest Rates

From 2004 to 2016, denial rates for manufactured home loan applicants in Indian Country have fluctuated between 40 and 75 percent.²⁶ They have always been significantly higher than for site-built home loans, and data suggest these denial rates are also high-

²² See, for example, Prosperity Now's October 2019 report of its survey of State housing finance agencies. P. 1.

²³ Todd, Richard, and Kevin Johnson. "Race, Location, and Manufactured-Home Loans on American Indian Reservations". Federal Reserve Bank of Minneapolis, December 2018.

²⁴ "Native American Homeownership". Fannie Mae. Accessed on July 8, 2021.

²⁵ Titling Requirements for Manufactured Homes. Fannie Mae, 2020. Accessed on July 8, 2021.

²⁶ See n. 23.

er than the rates for manufactured housing outside of Indian Country.²⁷

When borrowers are approved, they pay higher interest rates. Native Americans in Indian Country are generally more likely to have high-cost loans, and this is even more true for those who are borrowing for a manufactured home.²⁸

Policy Solutions

Policymakers interested in affordable housing are increasingly turning to so-called “naturally occurring affordable housing,” or unsubsidized housing, as an alternative or supplement to subsidized housing. Manufactured housing is currently the largest source of unsubsidized housing in the United States.²⁹

Gains from public investments in manufactured housing will be limited if consumers are not better served, however. The costs from higher mortgage interests alone can offset consumers’ gains from manufactured housing’s cheaper construction costs. Those higher interest rates may be driven by some lenders’ outdated or inaccurate perceptions of the risk involved in manufactured-housing loans—a reality that is also true of some lenders’ general perceptions of Indian Country.

Education for consumers about their financing options—and for lenders about the value and quality of manufactured housing—would be valuable. Consumers may be unaware of their options for refinancing or of the relative value of a mortgage compared to a chattel loan. Lenders may be unaware of advances in manufactured-home technology or policylike the fact that HUD has effectively established quality standards.³⁰

Funding set-asides for manufactured-housing pilots or projects may send a stronger signal. Indian Country represents a prime potential location for such a pilot. Half of the homebuyers on reservations already buy manufactured homes.³¹

Q.3. In Nevada, very few home loans were made with HUD’s Section 184 loan guarantee. The report, “The Higher Price of Mortgage Financing for Native Americans”, states that the Section 184 Indian Home Loan Guarantee Program and other loan guarantee programs offered by the Housing and Urban Development (HUD) Office of Native American Programs have been “largely ineffective on tribal lands with a few clear exceptions.” What factors make the program ineffective and what should we do to improve the program’s effectiveness?

A.3. Barriers to use of the Section 184 program on tribal lands are longstanding but subject to improvement. Congress could improve the titling process, increase lender and tribal participation in the program, and support organizations that can act as an intermediary between lenders and borrowers.

²⁷ See n. 23.

²⁸ See n. 6.

²⁹ See n. 9.

³⁰ See n. 10.

³¹ See n. 10.

Improving the Titling Process

To increase the program's reach onto reservations, the Federal Government could improve the titling process for trust land. Our brief, *Shortening the TSR timeline: A proposal to end delays that hinder Native home ownership*,³² describes seven considerations for doing so:

- Preserve success within the BIA. Expand best practices where possible.
- Require regular reporting on TSR-processing timelines.
- Bring all BIA offices into compliance with existing timelines and consider statutory deadlines for title recording and certified TSRs.
- Create an electronic portal for residential mortgage packages to provide certainty and efficiency to borrowers and lenders.
- Create an interagency report card, with regular updates, to spur collaboration between tribes and Federal agencies, build a foundation for accountability, and help identify solutions to trust land title issues for residential mortgages.
- Remove barriers between tribes and tribal land records.
- Consider a centralized mortgage-processing center.

Increasing Lender and Tribal Participation

Increased lender and tribal participation could also increase the program's effectiveness. Nationwide, 201 of the 574 federally recognized tribes have taken the steps necessary to participate in the Section 184 program.³³ Tribes are required to pass housing ordinances that define and enforce lenders' and borrowers' rights in the lending transaction.

The maximum total loan value Section 184 can guarantee in recent years has been set at \$1 billion. In fiscal year 2018, lenders guaranteed about \$600 million worth of mortgages.³⁴

About 108 lenders participated in the Section 184 program in a given year from 2005 through 2015; half of the loans over that time period were made by just 10 lenders.³⁵ Thus, when a tribe is registered to take part in the Section 184 program, its members often have few choices for a lender.

The relative shallowness of the pool of lenders doesn't just have implications for today's Indian Country home buyers; it also highlights a potential vulnerability in the program. If one of the largest lenders were to exit the market, borrowers would face an even steeper uphill climb to finance their homes and thousands of loans may fall through the cracks.

HUD does have one potential option to increase the number of available lenders: further utilize a "sponsored entity" provision that allows HUD 184/184A direct guarantee lenders to "sponsor" bro-

³² Colombe, James R., "Shortening the TSR Timeline: A Proposal To End Delays That Hinder Native Homeownership", Federal Reserve Bank of Minneapolis. September 2020.

³³ "Section 184 Participating Tribes List". HUD. Accessed June 30, 2021.

³⁴ "FY 2020 Congressional Justifications: Indian Housing Loan Guarantee Fund" (Section 184). HUD. P. 10-2. Accessed July 13, 2021.

³⁵ Listokin, David, Kenneth Temkin, Nancy Pindus, and David Stanek. "Mortgage Lending on Tribal Land". HUD, January 2017. P. 13 and Appendix B-7.

kers like Native CDFIs. Additional training and support are needed by Native CDFIs to more fully participate in this capacity.

Identifying Borrowers

There were 121 lenders registered to participate in the Section 184 program in May 2020.³⁶ Of these, 75 serve only a handful of States—or even a single State—and may only be familiar to certain tribes within those states.³⁷ Consumers elsewhere in the United States, on the other hand, might expect to have virtual or physical access to the thousands of lenders willing to underwrite a conventional mortgage.

Low participation in Section 184 reflects a general absence of lenders in Indian Country. Without a physical presence or long-standing history in communities, banks may have a harder time identifying qualified and interested borrowers. According to some banking contacts, this increases the cost of originating loans.

Intermediary organizations like Native CDFIs may have the relationships necessary to connect willing lenders with a potential clientele.

This was demonstrated in a pilot project in HUD’s Section 502 lending program. Native CDFIs in South Dakota worked with the USDA and lenders to greatly increase the number of loans made through that program on reservations.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR LUMMIS FROM ALENE TCHOURUMOFF

Q.1. I want to start with some questions about how the census may have inaccurately counted, because it’s so difficult, the number of Native Americans and how many are living in each household? You know, if you have a Native American household where there are multiple generations, there are extra workers, they are trying to keep everybody housed, perhaps in housing that is smaller than would normally be considered in the United States adequate for that many people, then some—the census comes along and maybe they’re reluctant to discuss how many people are living in their household.

So, question number one, is counting—is the census an issue, and is it contributing to undercounts? . . . And if you have some thoughts about concrete steps we can take to address this, I’d love to have you submit them in in writing.¹

A.1. Thank you for allowing me the opportunity to elaborate on the issue of undercounting of American Indians and Alaska Natives (AIANs) in tribal areas in the American Community Survey (ACS) and the decennial census. The undercounting of AIANs in previous censuses is an important concern for tribal governments and has been widely reported.¹ For example, after a post-enumeration sur-

³⁶ “Section 184 Participating Lenders List”. HUD. Accessed June 30, 2021.

³⁷ Ibid.

¹ Per the hearing transcript.

² DeWeaver, Norm. “American Community Survey Data on the American Indian/Alaska Native Population: A Look Behind the Numbers”. National Congress of American Indians (NCAI), February 18, 2013; and “The American Community Survey: Serious Implications for Indian

vey, the U.S. Census Bureau determined that the AIAN population living in tribal areas was undercounted by 4.9 percent in the 2010 Census³ (compared to a 0.9 percent overcount for the same population in the 2000 Census). This undercount can compromise the effective allocation of Federal funds to tribes, amounting to hundreds of millions of dollars in lost funds.⁴

The U.S. Census Bureau has already taken proactive steps to address the undercounting of AIANs in tribal areas, including through partnerships with tribes and Native organizations. However, there are additional ways to improve the accuracy of both the decennial census and the ACS in the future.⁵

Our chief suggestion pertains to new privacy measures implemented by the U.S. Census Bureau in the 2020 Census and, possibly, the ACS in the near future. Research conducted by Randall Akee, a professor at the University of California, Los Angeles and research affiliate with CICD, has shown that on reservations with fewer than 5,000 people—the large majority of reservations—the bureau’s new privacy algorithm will decrease the measured population by 34 percent.⁶ Relatedly, use of the most-recent privacy algorithm (Demonstration Project PLB 12.2)⁷ will cause some smaller tribes to report no population in the 2020 Census even though their communities are populated. I recommend that the U.S. Census Bureau allow tribal governments to determine how to trade off inaccuracy with privacy considerations when the bureau implements privacy measures.⁸

Another promising approach to addressing the undercount is to employ more tribal members as enumerators in future data collection. This helps to overcome issues of trust and allows the decennial census to reach more American Indians and Alaska Natives. This suggestion echoes the concern of tribal leaders and advocates.⁹

Country”. NCAI, October 11, 2010. See also “Disaggregating American Indian and Alaska Native Data: A Review of Literature”. NCAI, July 2016.

³“Census Bureau Releases Estimates of Undercount and Overcount in the 2010 Census”. U.S. Census Bureau news release, May 22, 2012.

⁴Reamer, Andrew. “Counting for Dollars 2020: The Role of the Decennial Census in the Geographic Distribution of Funds, Report #2”. George Washington Institute of Public Policy, March 2018. P. 1. We use these estimates of the cost of the undercount per person per State per year as a range of the impact of the undercount of the AIAN population living on reservations.

⁵Starting in 2011, the U.S. Census Bureau made changes to its enumeration of individuals living in tribal communities. First, the bureau no longer uses mail, Internet, and phone interviews for all individuals who have unmailable addresses and exclusively uses in-person interviews. All locations in remote Alaska, many of which are located in Alaska Native Villages, are treated as unmailable. The U.S. Census Bureau has also started to consult with tribal leaders to further improve the accuracy of population counts in tribal areas. For more description of these improvements, see the bureau’s *Handbook for Consultation With Federally Recognized Tribes*.

⁶Gus Wezerek and David Van Riper. “Changes to the Census Could Make Small Towns Disappear”. *New York Times*, February 6, 2020.

⁷Yvette Roubideaux and Gwynne Evans-Lomayesva. “What’s the Price of Privacy? 2020 Census Disclosure Avoidance System Impacts on Tribal Nation Census Data”. NCAI, May 18, 2021.

⁸This recommendation is consistent with the recommendation by the NCAI to honor the Government-to-Government relationship between tribes and the Federal Government when determining the right tradeoff between privacy and accuracy in the 2020 Census. See the NCAI’s research and policy recommendations website for more details.

⁹For example, Carol Evans, chairwoman of the Spokane Tribal Business Council, recently stated, “That’s why it’s important that we’re able to hire people to go out and talk to our tribal members and explain why it’s so important to complete the census. If we’re able to hire our own people, these are people that the tribal members will trust.”

**RESPONSES TO WRITTEN QUESTIONS OF
SENATOR CORTEZ MASTO FROM MICHAEL GOZE**

Q.1. Can you elaborate on the role of the Indian CDBG program to your tribes and its impact on affordable housing and community development?

A.1. The Ho-Chunk Nation has long utilized the ICDBG grant program for community development projects to improve our low-income communities. The greatest utilization of these grants has been in the improvement and expansion of community infrastructure. Using the ICDBG the Ho-Chunk Nation and Ho-Chunk Housing and Community Development Agency, have provided community water and sewer systems to 8 HCN villages throughout Wisconsin. Infrastructure and lot development have allowed the HCN to expand the affordable housing footprint for the Ho-Chunk Nation and increase economic development opportunities for tribal members. The Ho-Chunk Nation has also used ICDBG funds for the development of several community facilities that have enriched HCN communities. These development projects included park development, construction of an HCN Law Enforcement administration building, construction of a daycare facility providing daycare using the Montessori Method for over 50 children, construction of community centers in four of our HCN communities, the construction of Head Start schools, and rehabilitation of a youth learning facility. Finally, HHCDCA has used ICDBG funds to install photovoltaic solar panel systems on over 150 affordable housing rental units, lowering the monthly housing expenses for resident families. In conclusion, the ICDBG program has had an enormous positive impact on our affordable housing communities, both through the economic impact of new job creation and through community enhancement.

Q.2. Can you discuss the impact of the additional ICDBG funds allocated through the CARES Act? What was the impact of those funds on your tribes?

A.2. The funding impact of the additional ICDBG funds was a tremendous boost to the Ho-Chunk Nation and Ho-Chunk Nation Tribal members. The majority of funds used, was in direct assistance grants to tribal members struggling with rent, mortgage, and utility payments. HHCDCA also used these funds to procure and distribute a great deal of cleaning supplies and PPE.

Ho-Chunk Housing and Community Development Agency (HHCDCA) applied for the funds as the TDHE (tribally designated housing entity) of the Ho-Chunk Nation and received 1,500,000. HHCDCA used these funds to provide assistance to Tribal members in the following areas.

- Providing Rental Assistance, HHCDCA began providing rental assistance to both low and high income families that reported having difficulty paying rent due to the COVID-19 crisis.
- Providing Mortgage Assistance, HHCDCA began providing rental assistance to both high and low income families to reported difficulty paying rent due to the COVID-19 crisis.
- Utility Grants of \$350, to Ho-Chunk Nation Elders that are income eligible.

- Purchase of PPE to be distributed to Ho-Chunk Tribal members, with the purpose of protecting themselves and their families for the current COVID-19 Crisis. Gloves, face shields, masks, and protective gowns.

To date, HHCDCA has been able to financially assist over 830 households with rental, mortgage or utility assistance and we were able to distribute cleaning supplies and PPE to over 700 households. Currently HHCDCA is still processing assistance applications with this funding.

**RESPONSES TO WRITTEN QUESTIONS OF
SENATOR CORTEZ MASTO FROM ERIC SHEPHERD**

Q.1. Do you think the Nation's 11 Federal Home Loan Banks invest appropriately with the Nation's Native American tribes?

Do you think a set-aside for Native American communities is necessary for tribes to gain investments from the Federal Home Loan Banks?

A.1. Response not received in time for publication.

Q.2. Can you elaborate on the role of the Indian CDBG program to your tribes and its impact on affordable housing and community development?

A.2. Response not received in time for publication.

Q.3. Can you discuss the impact of the additional ICDBG funds allocated through the CARES Act? What was the impact of those funds on your tribes?

A.3. Response not received in time for publication.