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Government Reform

The Silent Depression: How Are Minorities Faring In the
Economic Downturn?

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National Congress of American Indians
Jacqueline Johnson Pata
Executive Director

1516 P Street, NW
Washington, DC 20005
202-466-7767

The National Congress of American Indians (NCAI) is the oldest, largest and most representative organization serving American Indian and Alaska Native people. We are the membership organization that represents the interests of the 562 federally-recognized tribes here in the United States. Since our inception in 1944, tribal governments have come together as a representative congress through NCAI to deliberate issues of critical importance to Native communities.

We come to this conversation convinced that – as one of the three types of government recognized in the U.S. Constitution – federal, tribal and state governments – tribes offer unique innovations that can make significant contributions to the policy debate regarding the economic crisis and the prospects for a fair and equitable recovery for all Americans.

Economic development in Indian Country lags behind the rest of the nation and impacts nearly every aspect of reservation life and tribal governance. For generations our communities have faced economic conditions that are even more pronounced than those of the current economic crisis. Eight of the ten poorest counties in America are home to Indian reservations. While economists worry as the national unemployment rate climbs closer to 10 percent, data shows that unemployment among Native people was 15 percent in 2003 and has not dropped below 10 percent for generations. To compare directly to the Great Depression, the 2000 Census recorded unemployment for American Indians on reservations at 22 percent compared to the unemployment rate during the Great Depression of 25 percent. Put simply, in many Native communities economic crisis is not an occasional disaster, it is a daily reality.

The 2000 Census reported the per capita income for American Indians and Alaska Natives living on reservations at \$7,942, merely one-third the U.S. average for all races, which was \$21,587. Low average income, coupled with high unemployment, means the poverty rate for Indian families on reservations is 36 percent, which is two and half times the national average.

Homes in Indian Country reflect the pronounced challenges of persistent poverty. Eleven percent of Native households lack kitchen facilities, 17 percent lack telephone service and 12 percent lack complete plumbing, while less than 1 percent of the U.S. population lack any of these facilities. Only half of reservation homes are connected to public sewer lines and our homes are almost three times more likely to be overcrowded than the national average.

More dire, in some ways, than simple statistics, are the stories from the ground. For example, many Alaska Natives are seeing the impact of the recession more than most. George Lamont, a tribal administrator in Tuluksak, Alaska, fears many tribal members may have their electricity shut off because of the crisis and the inability to pay their bills due to high fuel costs. They are having to choose between heating their homes and putting food on the table. Some say, the majority of their nutritional needs are being met by the school lunch program.

Hundreds of tribes suffer economic hardship and remain nearly invisible. They struggle to preserve their reservations, their culture, and their sovereignty. They are now feeling the full effects of the economic downturn and are even more vulnerable because governmental revenues are dependent on effective economic development (as discussed below). For some tribes, industries like timber production – once considered economic staples – are closing their doors. Even higher-profile gaming tribes around the country are currently laying off thousands of workers, affecting the economy of entire regions. The downturn is having a dramatic effect on tribal governments whose citizens already occupy the bottom end of the socio-economic scale.

Although Indian specific data is not available to analyze many aspects of the impact of the recession on Indian country, signs point to the downturn hitting low-income Americans hardest. Between September 2006 and October 2008, the unemployment rate for workers age 25 and over who lack a high school diploma, a very low income group, increased by 39 percent.¹ In 2007, 20 percent of American Indians aged 25 and over lacked a high school diploma, compared to 14 percent for the U.S. population.²

These substandard economic and quality of life indicators have a social toll as well. Health disparities are prevalent and suicide rates (a symptom of lack of opportunity) are high with over 60% more incidents than the average in America. Alcoholism on reservations and diseases like tuberculosis are both over 500% higher among Indians.

Despite the challenging social and economic conditions on reservations, there are examples of economic success that have resulted from tribal investments in infrastructure and use of available federal tools to grow their local economies and provide their citizens with a better quality of life – the goal of every government.

For example, in the 1960's, rural Neshoba County in Mississippi was once one of the country's most economically-depressed areas. Neshoba County is home to the Mississippi Band of Choctaw Indians who lived under miserable economic and health conditions. Nearly all houses on the reservation were considered substandard: 90 percent had no indoor plumbing; one-third had no electricity³.

In the 1980's the Tribe worked hard to turn conditions around by building the infrastructure necessary to draw industrial jobs to the reservation. After completing an industrial park, the tribe

¹ Parrott, Sharon. (2008, November 24). *Recession Could Cause Large Increases in Poverty and Push Millions into Deep Poverty*. Washington, DC: Center on Budget and Policy Priorities.

² U.S. Department of Commerce, U.S. Census Bureau (2007). *2007 Annual Social and Economic Supplement*. Current Population Survey (CPS).

³ NPR, All Things Considered, July 17, 2004

convinced a division of General Motors and the American Greetings company to locate on the remote reservation. Soon after, the tribe diversified its economy by creating service sector enterprises. Today, the tribe is the state of Mississippi's second largest employer with over 8,000 employees on its payrolls⁴. After generations of living in the worst economic conditions, the tribe has become a regional economic leader in the south.

Mississippi Choctaw is not an isolated example. Tribal governments, when given the right tools, can effectively lift their communities out of poverty and fully participate in the American economy. Not only can tribes raise their economic profile, but they have proven time and again that investing in tribes is an investment in rural America. Surrounding communities, and sometimes entire regions, are also beneficiaries of tribal success.

An analysis of socio-economic change between 1990 and 2000 showed that Indian Country economies grew at a faster pace than the economy as a whole. In fact, over the last 30 years the inflation adjusted per capita income of Indians on reservations grew by 83 percent compared to 64 percent for the U.S. population as a whole. While these gains are remarkable, our per capita income remains one-third of the U.S. average. If incomes were to continue to grow at their 1990s rate, the gap would not close for another 55 years.

These positive trends – for individual and communities – are at the heart of our testimony. The leaders of NCAI – elected tribal leaders from many of the states represented in this room – are regularly here on Capitol Hill to remind policymakers that self-determination works, but it needs more investment to work at a reasonable pace! Those conversations are about the simple reality that investments in tribal governments support policy innovations that can be – and have been – replicated to deal with some of America's toughest economic problems. The data presented in this statement demonstrate that it is both essential and mutually beneficial for the federal government to partner with tribes to address the economic challenges facing our communities.

The statement will address our work on the American Recovery and Reinvestment Act (ARRA) and will then deal with three particular areas where challenges – and opportunities – exist for economic recovery in tribal communities. Those areas are: unemployment, the foreclosure crisis and minority business development.

1. Indian Country and ARRA

Understanding the ongoing need for economic recovery

⁴Neshoba County Website, Community Development Partnership, Mississippi Band of Choctaw Indians Timeline

In the early days of the Obama administration our policy team worked to ensure that the most pressing challenges facing Indian Country were on the table as the Recovery Act was being written. We effectively communicated the needs of Indian Country, identifying more than \$6 billion in unmet needs with the potential to lift Native communities out of poverty and substantially stimulate local, regional and the national economy. Our efforts helped to secure \$3 billion in direct tribal funding. In addition to this funding, tribes are eligible for some general funding allocations related to broadband and other infrastructure focused investments.

After the Act became law, NCAI was one of the first organizations in the nation (and well ahead of many states) to set up a clearinghouse of information on ARRA. Our website, IndianCountryWorks.org provides up-to-date information on funding opportunities and provides other technical assistance through webinars, email updates and other resources.

However, while \$3 billion is an unprecedented one-time investment in Indian Country, it is really just a drop in the bucket to addressing the economic needs of tribal communities. Many of the “shovel ready” projects in Indian Country have been that way for over a decade. For example, two health facilities will be constructed in Alaska and Oklahoma using more than \$200 million in recovery funding, providing much needed health services to Native people in Alaska and Oklahoma. However, those facilities have been on the Indian Health Service’s Healthcare Facilities Construction Priority List since the mid-1990s. (Clearing the priority list, alone, is estimated to cost \$2.6 billion).⁵

Advocating for a fair and equitable recovery

Our work to advocate for a fair and equitable recovery is about making sure shovel ready projects are funded in areas of the most need – including Native communities and other communities of color. While tribal-state partnerships have worked very effectively on a range of policy issues, direct tribal funding and set-asides tend to work more efficiently to meet the unique needs of Native communities. This is particularly true with respect to housing and infrastructure.

For example, the Recovery Act provided \$510 million in increased investments in Indian housing programs that have already proven effective. The Indian Housing Block Grants recognize and support the authority of tribes to make their own decisions to meet the pronounced housing challenges in reservation communities. Over the past decade, the Native American Housing and Self Determination Act has provided support for tribes to halve the number of homes that lack plumbing and are overcrowded. There is still a lot of work to do, but tribes are

⁵ Senator Byron Dorgan, Opening Statement to Senate Committee on Indian Affairs Hearing “The State of Facilities in Indian Country: Jails, Schools, and Health Facilities,” March 6, 2008

successful in meeting the needs of their communities when they are provided with sufficient resources to do so.

Beyond housing, economic mobility requires access to basic infrastructure. While tribal leaders are concerned about access to broadband – which stands at only 10 percent on reservation lands – the more immediate problem is that tribal members are almost 15 times more likely to lack access to electricity than the general population and one in every three Native homes lacks basic telephone service. As we detail below, the irony is that tribal lands are home to significant traditional and alternative energy sources, yet tribes have been overlooked as partners in meeting the energy needs of tribes, states and the nation as a whole.

Measuring the Impact of the Recovery

We are heartened by the commitment of the federal government – along with tribal (and many state governments) – to ensuring we can measure the impact of government investments like the Recovery Act. However, the absence of reliable data collection is a significant barrier. Specific examples of the paucity of data to guide tribal policymaking is outlined in the next section.

To specifically measure the impact of the Recovery, we are working with tribes to collect data that assesses four key areas:

1. The experience of the federal grantmaking process from the recipient/applicant perspective (e.g., How did the money get out the door? Were the intended uses of funds/programs a good match for tribal communities? What evaluation process was used for competitive grants? How did tribes fare in competitive grant pools in which they were one of several potential applicant groups- that is, in a pool with state and county governments and/or nonprofit organizations?)
2. The impact of Recovery dollars from an infrastructure building standpoint (e.g., How many jobs were preserved? How many new temporary jobs were created? How many new permanent jobs were created? What was the quality of jobs created- salaries, benefits, etc.? How many miles of new road were created? What new governmental and community institutions- schools, hospitals, jails- were built? What is the impact of having these services available in the community?)
3. The impact of Recovery dollars in creating the future that tribal communities desire (e.g., Building institutions and infrastructure that allow people to live in the community and stay in the community to receive services: increasing the availability of culturally-appropriate services: increasing the “sense of community” by building institutions and infrastructure that connect people and places: in the long-term, facilitating the creation of the economic opportunities that the community wants)
4. The ongoing economic development and infrastructure needs in Indian Country that remain untouched by the Recovery effort

Working with tribes to ensure the federal government understands the impact of ARRA is a critical strategy to ensure the recovery does not leave some of America's most vulnerable citizens behind.

2. Unemployment in Indian Country

Unemployment is rightly a key focus of this hearing. The story of unemployment in Indian Country is one of a paucity of data and some egregious missed opportunities for the federal government to invest in economic revitalization in some of America's most economically challenged communities.

Unemployment data – the story it tells, and what is missing

Unemployment data is an increasingly important lens in assessing the extent of the economic crisis and our recovery from it. It is therefore, particularly concerning to us that the Bureau of Labor Statistics does not include on-reservation unemployment rates (often at levels well beyond 50 percent) in their monthly employment reports. This absence means that the unemployment rate for states with high Native populations is likely considerably understated, whether states with higher than average unemployment rates (as in Michigan or Oregon at 14.1 and 12.1%, respectively) or lower than average (as in Arizona or Montana, at 8.2 or 6.2% respectively). The role of this data in directing federal appropriations and guiding federal, tribal and state policymaking underscore the importance of remedying this situation.

Furthermore, data from the Census Bureau identifies American Indians and Alaska Natives as the population facing both the most pronounced socioeconomic disadvantage and the least accurate Census data. The annual Census report on poverty and health insurance in America consistently reports Native data as a footnote with the three most frustrating words for policymakers who care about tribal communities – “insufficient sample size.”

The paucity of data makes analysis of contemporary data sources very difficult, however the data table below, comparing state-by-state unemployment data from March 2009 to the most reliable Native/non-Native rates (from the 2000 Census) show that it is overwhelmingly likely that Native communities are being hit very hard by the economic downturn.

Table 1: A comparison of Native unemployment to the national picture⁶

| | Q2 2009 (All races) | 2000 Census Unemployed (All races) | 2000 Census Unemployed (AI/AN Alone) | 2000 Census (AI/AN Alone on Reservation/Trust Land) |
|---------------------------------|------------------------|--|--|--|
| USA | 9.30% | 3.70 | 12.4 | 21.9 |
| Alabama | 9.60% | 6.2 | 5.8 | 14.9 |
| Alaska | 8.20% | 9 | 11.7 | 21.8 |
| Arizona | 8.20% | 5.6 | 9.5 | 25.6 |
| Arkansas | 6.90% | 6.1 | 4.4 | |
| California | 11.40% | 7 | 6.8 | 18.6 |
| Colorado | 7.50% | 4.3 | 6 | 14.9 |
| Connecticut | 8.00% | 5.3 | 5.8 | 4.8 |
| Delaware | 8.00% | 5.2 | 4.5 | |
| District of Columbia | 10.50% | 10.8 | 7.3 | |
| Florida | 10.20% | 5.6 | 5.6 | 7.7 |
| Georgia | 9.60% | 5.5 | 5.6 | |
| Hawaii | 7.20% | 6.3 | 7 | |
| Idaho | 7.70% | 5.8 | 10.4 | 18.6 |
| Illinois | 9.90% | 6 | 6.6 | |
| Indiana | 10.40% | 4.9 | 5.3 | |
| Iowa | 5.70% | 4.2 | 6.5 | 19 |
| Kansas | 6.80% | 4.2 | 5.1 | 11.6 |
| Kentucky | 10.50% | 5.7 | 7 | |
| Louisiana | 6.50% | 7.3 | 5.4 | 5.7 |
| Maine | 8.20% | 4.8 | 7.4 | 20.6 |
| Maryland | 7.10% | 4.7 | 4.5 | |
| Massachusetts | 8.30% | 4.6 | 5.1 | |
| Michigan | 14.10% | 5.8 | 7.2 | 16 |
| Minnesota | 8.20% | 4.1 | 9.3 | 18.4 |
| Mississippi | 9.30% | 7.4 | 8 | 14.4 |
| Missouri | 8.80% | 5.3 | 6.2 | |
| Montana | 6.20% | 6.3 | 11.9 | 23.7 |
| Nebraska | 10.90% | 3.5 | 9.5 | 23.3 |
| Nevada | 4.20% | 6.2 | 7.1 | 14.1 |
| New Hampshire | 4.80% | 3.8 | 3.7 | |

⁶ Data for these tables derived from U.S. Census Bureau, Census 2000 Summary File 4. Q2 2009 data is from Economic Policy Institute estimates available at: <http://www.epi.org/page/-/unemployment%20by%20quarter%20%282%29.pdf>

Table 1 (continued)

| | Q2 2009 (All races) | 2000 Census Unemployed (All races) | 2000 Census Unemployed (AI/AN Alone) | 2000 Census (AI/AN Alone on Reservation/Trust Land) |
|-----------------------|------------------------|--|--|--|
| New Jersey | 11.30% | 5.8 | 6.6 | |
| New Mexico | 6.50% | 7.3 | 9.5 | 21.4 |
| New York | 8.80% | 7.1 | 7.5 | 10.9 |
| North Carolina | 6.40% | 5.3 | 5.2 | 9.3 |
| North Dakota | 8.20% | 4.6 | 10.9 | 21.4 |
| Ohio | 10.70% | 5 | 5.9 | |
| Oklahoma | 6.30% | 5.3 | 5.2 | 9.3 |
| Oregon | 12.10% | 6.5 | 8.3 | 17.2 |
| Pennsylvania | 8.10% | 5.7 | 6.7 | |
| Rhode Island | 11.90% | 5.6 | 6.5 | |
| South Carolina | 11.80% | 5.9 | 5.6 | |
| South Dakota | 5.00% | 4.4 | 13.1 | 27.9 |
| Tennessee | 10.50% | 5.5 | 4.5 | |
| Texas | 7.10% | 6.1 | 5.4 | 21.7 |
| Utah | 5.40% | 5 | 9.2 | 28.6 |
| Vermont | 7.30% | 4.2 | 6.5 | |
| Virginia | 7.00% | 4.2 | 4.1 | |
| Washington | 9.10% | 6.2 | 9.2 | 21.3 |
| West Virginia | 8.40% | 7.3 | 8.6 | |
| Wisconsin | 8.80% | 4.7 | 8.4 | 14 |
| Wyoming | 5.10% | 5.3 | 12.2 | 27.4 |

If federal data collection is really about effective policy interventions, it is critical to ensure that accurate data is available for federal, tribal and state policymaking. NCAI has launched an aggressive campaign to ensure Indian Country Counts in the 2010 Census. We are partnering with a range of tribes and Native organizations to ensure the Native population is accurately counted. Our work in this area is not only directed by our concern about available data, it is driven by our concern for the *quality* of available data. The significant undercount of American Indians and Alaska Natives is a significant concern. According to the Census Post-Enumeration Survey, the 1990 census undercounted American Indians/Alaska Natives by an estimated 12.2 percent on reservations and 4.5 percent in all geographies. A National Academy of Sciences panel concluded that while undercounts among these communities were likely lower in the 2000 Census, the challenges persisted. Dramatically high undercounts on reservations were documented in the 1980 Census as well – there was a 24 percent undercount at the Pueblo of Santo Domingo in New Mexico, and an undercount between 13-23 percent on the Colville

Reservation in Washington state.⁷ Furthermore, Native people are dramatically overrepresented in areas defined as “hard-to-count.”

Missed opportunities to invest in tribal communities

Tribal governments can serve as significant incubators of economic growth in relation to job growth in general, and in cutting edge areas of alternative energy development specifically. This section will address those opportunities (significantly underutilized at this point) in the areas of green jobs, job programs at the Department of Labor, and the potential of tribal colleges and universities to spur job growth to the benefit of a range of rural communities.

Green jobs represent a significant new employment opportunity for disadvantaged communities – particularly communities of color. Tribal lands comprise over 10% of the nation’s traditional energy resources and 5% of the land base. Furthermore, tribal lands are a potentially rich source of renewable energy. According to the Department of Energy, wind energy potential on tribal lands can provide more than 20 percent of the nation’s electric power generated in 2004. Solar energy potential on tribal lands can provide 4.5 times the current annual U.S. electric generation.

Despite these opportunities, tribes have been left out of federal efforts to support domestic energy development. The recovery act provides \$3.1 billion to support state renewable energy and energy efficiency programs but nothing for tribes. In fact, only \$16.5 million has been allocated to tribes since 2002. Furthermore, tribal governments were excluded from the green jobs title of the Energy Independence and Security Act of 2007 and tribes are not eligible to apply for recently announced funding opportunities under the Pathways out of Poverty program. To exclude tribes and their members from accessing these critical tools for economic revitalization will only increase the socioeconomic gap that exists between many Native people and their fellow Americans.

Beyond green job investments, tribes were also excluded from many other Department of Labor initiatives in ARRA. These initiatives, that seek to encourage job growth, are almost exclusively delivered through direct state funding or funding to nonprofit entities that are very scarce in reservation communities. While tribal-state partnerships have worked very effectively on a range of policy issues, direct tribal funding and set-asides tend to work more efficiently to meet the unique needs of Native communities. Given the pronounced nature of the unemployment crisis in Indian Country, dedicated tribal funding from the Department of Labor seems to be particularly warranted.

⁷ Lujan, C. (1990). As Simple as One, Two, Three: Census Underenumeration Among the American Indians and Alaska Natives

Tribal Colleges and Universities – Job training hubs in rural communities

Higher education is one of the main drivers of economic development in the United States, and particularly for American Indian communities. Higher levels of education correlate with higher earnings, lower employment rates, and lower poverty rates. For example, in 2005, a typical year-round worker in the United States with a bachelor's degree earned 62 percent more than someone with a high school diploma.⁸ A college degree has a positive ripple effect on the well-being and economic strength of tribal communities and society as a whole.

While the number of American Indian and Alaska Native students enrolled in colleges and universities and the number of postsecondary degrees awarded has more than doubled in the past thirty years, only slightly more than a quarter (26 percent) of American Indian and Alaska Native 18- to 24-year-olds were enrolled in college in 2006.⁹ Increasing access to college for our American Indian and Alaska Native populations is essential in fighting the poverty and unemployment rates that have affected American Indian communities for centuries.

To provide increased higher education opportunities for their citizens, 36 Tribal Colleges and Universities located in 14 states, have been established by tribal governments over the last 40 years. These tribally-run colleges, many of which are located on reservations or nearby neighboring communities, serve geographically isolated populations that have limited access to nearby colleges. These institutions serve students from more than 250 federally recognized tribes and more than 80 percent of their students are eligible to receive federal financial aid. According to the American Indian Higher Education Consortium (AIHEC), which collectively represents tribal colleges and universities, tribal colleges provide students with a college education grounded in culturally relevant traditions and curriculum and graduate students with degrees in high need areas on the reservation, such as health services, primary and secondary education, and rural farm and business development. According to 2009 AIHEC report, of the 15,795 certificate and degree-seeking students enrolled at tribal colleges and universities in fall 2006, the most popular discipline was liberal arts, followed by business, vocational/career programs, and social sciences.¹⁰

Tribal Colleges and Universities also play an important role in workforce and skills development, family support, and community education services. They are true community-based institutions, providing the education and skills development needed for entrepreneurship and job creation. According to a 2007 report from the Institute for Higher Education Policy, an

⁸ Baum, S. & Jennifer M. (2007). *Education Pays: The Benefits of Higher Education for Individuals and Society*. Washington, DC : College Board.

⁹ DeVoe, J.F. & Darling-Churchill, K.E. (2008). *Status and Trends in the Education of American Indians and Alaska Natives*. Washington, DC: U.S. Department of Education. National Center for Education Statistics. (NCES 2008-084).

¹⁰ American Indian Higher Education Consortium. (2009). *AIHEC-AIMS Fact Book 2007: Tribal Colleges and Universities Report*. Alexandria: American Indian Higher Education Consortium.

associate's or bachelor's degree on a reservation may enable a person to create jobs by starting a business, foster the spirit of leadership and entrepreneurship, and alter negative cultural perceptions of education for future generations.¹¹ The economic and social benefits of one tribal citizen receiving a college degree are experienced throughout a community.

The federal funding needs of Tribal Colleges and Universities

A significant source of funding for tribal colleges and universities is the federal government. The provision of higher education funding for American Indians by the federal government is bound by treaty obligations and the trust responsibility between sovereign Indian nations and the United States government.

Title I: Institutional Operations

In particular, tribal colleges and universities receive funds from the Bureau of Indian Affairs through the Tribally Controlled College or University Assistance Act of 1978, particularly under Title I. Despite the much appreciated increases that Congress has appropriated over the last several years, tribal colleges and universities remain chronically underfunded. According to the American Indian Higher Education Consortium, in Fiscal Year 2009, Title I tribal college and universities (of which there are 25) received \$5,494 per Indian Student Count (distribution of funds under Title I of the Tribal College Act is enrollment driven) towards their institutional operating budgets. However, since the Tribal College Act was first funded in 1981, the number of Title I funded tribal college and universities has nearly quadrupled and enrollments have increased by more than 300 percent. If inflation is factored in, twenty-eight years later the program's buying power is \$1,115 less per Indian student than it was in the programs initial Fiscal year 1981 appropriation, which was \$2,831. It is also important to add that tribal colleges and universities do not receive any funds for non-Indian students, who make up approximately 20 percent of enrollment. Without adequate funding that keeps pace with inflation, these colleges are hindered from providing the best college education to Native and non-Native students in reservation and surrounding communities.

Tribal Colleges and Universities Title III Grants Program

In addition, the majority of tribal colleges receive funding from Title III under the Higher Education Act's Aid for Institutional Development program. This critical program provides tribal colleges and universities with grants to develop infrastructure, facilities, faculty, curriculum, and student services. By increasing and improving these functions, these colleges are able to improve chronically underserved American Indian communities. However, federal appropriations for both basic development grants and facilities/construction grants have remained stagnant over the past three fiscal years. In fiscal year 2007, \$23,570,000 was

¹¹ Institute for Higher Education Policy. (2007). *The Path of Many Journeys: The Benefits of Higher Education for Native People and Communities*. Washington, DC: Institute for Higher Education Policy.

appropriated for both programs under Title III. In fiscal year 2008 and fiscal year 2009 (continuing resolution), the federal appropriation was nearly identical at \$23,158,000.

Increasing the enrollment and degree attainment of American Indians is crucial to the economic and social well-being of individual American Indians and their communities. Without increased investment in American Indians and tribal colleges and universities, it will be difficult to increase job opportunities, economic mobility, and the overall health of American Indian nations.

Recommendations related to unemployment and job creation

Congress can partner with tribes in addressing challenges posed by unemployment through the following strategies:

- Investing in data collection methods that ensure timely and accurate socioeconomic data for American Indian/Alaska Natives, particularly as part of the monthly BLS unemployment report and the 2010 Census
- Partnering with tribes to harness alternative energy potential on tribal lands
- Providing tribal access to and set-asides within Department of Labor programs to stimulate job growth and encourage the creation of green jobs
- Investing in tribal colleges to capitalize on their significant potential as economic engines in disadvantaged rural communities, particularly with respect to the Administration's strategies to invest in green job development and train the tribal workforce to meet this challenge

3. The Foreclosure Crisis and Native Communities

While the United States faces one of the most significant housing crises in the nation's history, many forget that Indian housing has been in crisis for generations. Forty percent of on-reservation housing is considered substandard (compared to six percent outside of Indian country), and nearly one-third of homes on reservations are overcrowded. Less than half of the homes on reservations are connected to public sewer systems, and 16 percent lack indoor plumbing.¹²

Data related to the impact of the economic crisis on Native homeownership is weak, at best. The Department of Housing and Urban Development (HUD) has reported some challenges with foreclosures in their 184 program (described below) – particularly in regions hard hit by the mortgage crisis (Southern California, Arizona, etc.). However those challenges remain a very low proportion of total loan volume (less than 1 percent). This can partially be explained by the

¹² US Commission on Civil Rights, *A Quiet Crisis, Federal Funding and Unmet Needs in Indian Country*, Executive Summary, July 2003, p. X and 50 available at <http://www.usccr.gov/pubs/na0703/na0204.pdf> (Last accessed February 1, 2007).

fact that exotic financial products cannot be guaranteed through the 184 program which will only guarantee traditional fixed rate mortgages.

Recent data related to non-184 loans on Indian lands is not available at levels that allow for detailed analysis. Upward trends in 184 lending, even in the past 18 months, imply tribal members may be reverting to the federally guaranteed product to purchase homes in a context where available credit is decreasing and access to capital is increasingly scarce.

Significant barriers to homeownership on Indian lands mean that many of the most qualified homeowners were still waiting to access homeownership opportunities when the mortgage crisis began. In fact, HUD data from 1999 reveals that less than 1.5 percent of households that could qualify for mortgage financing on Indian lands actually had a mortgage.¹³

The detail of this section of our statement, therefore, focuses primarily on barriers to homeownership and how Native communities are addressing those barriers. We encourage the federal government to partner with tribal governments to ensure opportunities to expand homeownership on Indian lands are maximized for the benefit of Native communities and the surrounding regional economies.

Context for the Housing Crisis – Unique Barriers, Unique History

The contemporary challenges for Indian housing find their source in successive federal policies that have undermined the availability of adequate housing on Indian lands for hundreds of years. The removal and allotment eras substantially altered both the volume and type of land available for the development of Indian housing. Proponents of homeownership look to the Homestead Act as a keystone moment in the history of “the American Dream” of homeownership. However, this view fails to acknowledge that the Homestead Act depended upon the allotment policy’s confiscation of nearly two-thirds of Indian lands to provide a large amount of land for non-Indian settlement (framed as “surplus” land at the time).¹⁴ In effect the policy operated as a confiscation of land owned by Indian people and the offer of that land to white males – excluding African Americans and women from opportunities to become stakeholders in America.

Progress in Indian housing policy in subsequent decades was slow but the 1990s offered a number of important innovations in Indian housing. The 1996 enactment of the Native American Housing Assistance and Self-Determination Act (NAHASDA) was rightly seen as a significant

¹³ U.S. Department of Housing and Urban Development, U.S. Department of Treasury, *One Stop Mortgage Center Initiative In Indian Country, A Report to the President*, October 2000.

¹⁴ Getches, Davis, Charles Wilkinson and Robert A. Williams, *Cases and Materials on Federal Indian Law*, 4th Edition, St. Paul, MN: West Group, 1998, pp93-99, 141-143.

event in the history of Indian housing.¹⁵ NAHASDA consolidated a number of existing programs into the Indian Housing Block Grant (IHBG). This system empowered tribes to more effectively develop, implement, and manage strategies to meet the specific housing needs of their community.

Created in 1992, the Section 184 program provides 100 percent reimbursement to private lenders in case of default. Indian Tribes have been successful in participating in this program with an extremely low default rate. The program authorizes the BIA and HUD to approve borrowers and land leases in order to guarantee loans from private lenders to Native American families, tribes, and housing authorities. The home and the leasehold interest in the home site are mortgaged and are subject to liquidation in case of foreclosure, although eligible tribal members, the tribe, or the relevant Indian Housing Authority are first offered a chance to assume the leasehold interest and continue payments. In order to participate in HUD mortgage guarantee programs, HUD must review the tribe's legal ordinances which include: leasing, mortgage lending, eviction and foreclosure as well as the code enforcement process through the tribal courts system or another court of competent jurisdiction (designated by the tribe).

In 2004, HUD expanded the Section 184 program to allow tribes to petition the agency for the right to extend their service area or "Indian Area" to include Native-owned homes off-reservation. These off-reservation units exist in areas where a particular tribe traditionally resided or where significant members now live. As a result, certain tribes can now apply the Section 184 program to all of their members residing within a particular state instead of just within their reservation's borders.¹⁶ These recent investments in and expansions of the Section 184 Program have encouraged expanded mortgage lending on Indian lands over the past few years. However, the lengthy time often required to generate Title Status Reports (TSRs) for many Native people poses a critical threat to homeownership on Indian lands. The TSR is a necessary precursor to issuing a mortgage for a property on trust land. Tribal members have reported waiting months and even more than a year for their TSRs to be processed. The National American Indian Housing Council (NAIHC) has reported that – even before the crisis struck – some major banking institutions abandoned the 184 program (or not utilized it in the first place) because of frustrations with the process for generating title reports on reservation lands.¹⁷

¹⁵ Native American Housing Assistance and Self-Determination Act of 1996, Pub. L. No. 104-330, 110 Stat. 4016 (codified as amended at 25 U.S.C. §§ 4101 4195 (Supp. IV 1998)).

¹⁶ Mark Fogarty, *Liu adds to legacy though HUD 184 expansions*, Indian Country Today, May 9, 2005, available at <http://www.indiancountrytoday.com/archive/28165849.html> (Last accessed Feb. 28, 2007).

¹⁷ Press Release, NAIHC, *Barriers to the Pathway for Homeownership High for Native Americans*, NAIHC Chair Testifies- Bureau of Indian Affairs Hindering Home Ownership with Slow Title Process (July 31, 2006) available at <http://naihc.net/NAIHC/files/ccLibraryFiles/Filename/000000000894/073106-camp-verde.pdf> (Last accessed Feb. 10, 2007).

As you may know, Indian land is generally restricted from sale or purchase, and the title to the land is held in trust by the federal government. Almost every development activity on tribal land requires some sort of action by the Department of Interior – whether to approve a lease or provide a record of title or transfer land into trust status. Underfunding and inefficiencies in the title process on Indian lands means that Native people who wish to build, improve on or purchase a home on Indian lands face a barrier to their dream that is not faced by any other person or community in America. While industry standards see title reports issued within 24-48 hours, Native people can wait months and even several years. There are – undoubtedly – barriers to homeownership for other Americans, but none that present such a persistent and pervasive challenge as the barriers created by the broken system for managing title on Indian lands.

Whether managed by state governments, local governments, or private contractors (on the behalf of state or local governments), title processing is almost universally faster and more efficient on non-Indian lands. Slow title processing on Indian land presents a significant challenge to economic development, the frustratingly long process for generating a title report leads some—both tribal leaders and citizens—to give up completely on dreams of home ownership for tribal members and on successful economic development for the tribe. This barrier also presents a fundamental inequity. Native people who wish to build, improve, or purchase a home on Indian lands face a barrier to their dream that is not faced by any other person or community in America.

What the barriers mean in the current context

These significant barriers to homeownership in Indian Country are readily apparent when one considers that in 1999 there was a total of only 471 home mortgages on Indian Lands, a mere 1.2 percent of 38,000 households that were estimated to have sufficient income to qualify for a mortgage. Given the Section 184 program is about to originate its 9,000th mortgage in 2009, this means less than a quarter of the Native citizens eligible for mortgage financing (10 years ago!) have been served through one of the federal government’s most successful programs to promote Native homeownership. This is not only a fundamental inequity, it means tribal members that want to pursue homeownership are choosing to purchase homes off-reservation (by virtue of the barriers to on-reservation homeownership) resulting in a loss of talent and economic vitality in Native communities.

Access to capital is also a critical issue that pre-existed (and is exacerbated by) the current crisis. Conventional home mortgages were rated as “difficult” or “very difficult” to finance by 65 percent of tribal respondents to a survey of the 2001 Native American Lending Study. The study also found that access to financial institutions is a particular challenge for Native people. Eighty-six percent of Native communities lack a single financial institution within their borders and 15 percent of Native Americans need to travel over 100 miles to access a financial

institution. This challenge is even more remarkable when one considers the definition of ‘financial institution’ includes a bank or simple an ATM.¹⁸

The disconnect between Indian Country and the financial mainstream offers a wide open door to “fringe” financial companies that aggressively market predatory loans and risky mortgage products in all communities of color. Astronomical subprime lending in Native communities in states like New Mexico and South Dakota is pretty easily explained when you consider that many banks are simply not there to compete for Native communities. It is much easier to sell predatory products to Native consumers when banks are not competing for those customers.

Innovations to address contemporary challenges

In relation to financial service delivery, we have seen significant growth in the Native Community Development Financial Institution (CDFI) field over the past nine years. In 2000, there were just a handful of CDFI Fund certified Native CDFIs. Since the CDFI Fund created its Native Initiative, the number of certified Native CDFIs has grown to almost 50, with another 30-40 in the development or certification process. These institutions are partnering with tribal governments to transform Native economies through offering affordable financial services and supporting people in developing financial skills. They are also critical institutions to restart our nation’s economy. To get credit markets moving again, community-based lenders who can effectively prepare borrowers to buy their home or start a business are critical partners. Community-based institutions ready to deliver free and affordable tax preparation services are critical to seeing communities of color benefit from the \$100 billion in individual resources in ARRA. Without those institutions we cannot ensure these resources stay in the community and benefits working families. With specific reference to mortgage lending, Native CDFIs prepare Native borrowers and package responsible loan products to ensure a successful homeownership experience.

Even in the area of title processing, a handful of tribes have contracted with the federal government to manage the title process themselves. They have seen huge improvements in the title process – now measured in hours rather than years! They have also seen a significant change in the way the community thinks about its land, and the opportunities for homeownership and economic development.¹⁹

Tribal governments also have a role to play in regulating lending practices on tribal lands. In the same way as state government jurisdiction is protected in federal statutes regarding predatory lending, tribal jurisdiction must be protected. Tribes in states like Arizona, New Mexico, Oregon,

¹⁸ Department of the Treasury, *Native American Lending Study*, 2001

¹⁹ For more details on these successes (and remaining challenges), see First Nations Development Institute and NCAI PRC, *Exercising Sovereignty and Expanding Economic Opportunity through Tribal Land Management*, NCAI PRC 2009

and others are already partnering with state governments to ensure predatory lending does not adversely affect tribal members. Unless federal protections of tribal jurisdiction are included in bills regulating predatory lending, a key protection from inappropriate financial products will be lost.²⁰

Another area where tribes are leading the way with regard to strategies for economic recovery is in the area of financial education. Facing depressed economic conditions, and realizing that avoiding predatory lending requires more than regulations alone, many tribes have implemented reservation-wide financial literacy programs.

On the Salt River reservation in Arizona, the tribe has implemented a coordinated strategy to develop the financial skills of their members. Calling it “Salt River University” the tribe offers classes in basic financial literacy, homeownership and investor education. This spring, the tribe launched a financial education for all of the youth in the community.

In one of the nation’s poorest counties, the citizens of the Cheyenne River reservation in South Dakota are participating in a newly launched initiative called “Making Waves.” The initiative provides every student in the schools on the reservation with basic financial education and entrepreneurship education. Launched by a tribal government resolution and implemented in partnership with Four Bands Community Fund, the initiative stands with the Salt River University, as one of the few financial education strategies in America that is designed to develop the skills of every citizen in the community.

Recommendations related to foreclosures and homeownership

Congress can partner with tribes in addressing challenges to homeownership and financial service delivery by:

- Investing in the gathering of quality data about Native homeownership rates – both loans originated through the Section 184 program and those accessed through mainstream lending
- Applying federal resources to implement the recommendations of the NCAI Policy Research Center’s report into opportunities to expedite land title processing on tribal lands
- Continuing to invest in the Native Initiatives at the CDFI Fund and other strategies to expand financial institution access on reservations
- Ensuring the jurisdiction of tribal governments are protected – along with states – in the development of predatory lending regulation
- Learning from tribal financial education strategies and investing in similar strategies to expand financial skills among all Americans

²⁰ For further information on the impact of predatory lending on tribal lands see First Nations Development Institute...

4. Minority Businesses as Economic Engines in Rural and Reservation Communities

Economic revitalization in Indian Country is intrinsically linked to business development. We have identified a range of diverse strategies to expand access to business opportunities for Native people.²¹ It is also clear that usable data is a key challenge as the federal government and tribes seek to encourage small business development on tribal lands. Partially in response to the definitional changes within the Census Bureau's 2002 Survey of Business Owners, the 2007 Native American Economic Policy Summit recommended that data be gathered to "understand the trends among Indian-owned businesses, tribal economic growth, industry participation, sector participation and growth, and general economic conditions."²²

Many federal programs exist to encourage the development of Native-owned businesses. Several of them went un- or under-funded during the past Administration. The pronounced and unique challenges facing Native communities require the implementation of the most effective and promising strategies to ensure economic revitalization for Native people. These innovations include, the following recommendations from our FY 2010 budget request:

- Restoring adequate funding to the Native American Outreach Program at the Small Business Administration. The program has played an important role in overseeing and facilitating the implementation of small business programs administered by the SBA and funding for the SBA's Native American Outreach Program (NAOP) was slashed from \$5 million in the 1990s to \$1 million in recent years
- Funding the Office of Native American Business Development (ONABD) in the Department of Commerce, an office that was authorized in 2000, yet has received no significant or independent funding.
- Providing funding for the Minority Business Development Agency (MBDA) to establish at least eight Native American Business Centers (NABEC) at levels commensurate with the average funding levels of other MBECs.
- Increasing appropriations for the Bureau of Indian Affairs' Guaranteed Loan Program within the Office of Indian Energy and Economic Development and expand the program to guarantee surety bonding. One of the more successful programs in leveraging federal resources, assisting tribes and their members in accessing capital and encouraging lending to Indian-owned businesses.

²¹ National Congress of American Indians, *Indian Country FY 2010 Budget Request*

²² The change by the Census Bureau excluded tribally-owned businesses from the definition of American Indian/Alaska Native businesses in their five yearly study, making the data impossible to compare to previous surveys. The recommendations of the Summit can be found in Department of Interior and NCAI, *Summit Report: National Native American Policy Summit, 2007*

Federal strategies to expand access to contracting services for minority owned businesses are particularly critical in reservation communities that are generally located in rural areas with very limited economic opportunities. When our children grow, they need to know that there will still be business and economic opportunities for them, like those offered by successful government contracting programs. The federal government's 8(a) contracting program is one way entrepreneurs in Native communities build Native economies by helping our people secure government contracts. This in turn increases jobs and business opportunities. Contracting has become a new and vital branch of enterprise development for tribes, villages and communities. 8(a) contracting programs are vital strategies to raise both revenue and business sophistication in Indian Country and Native Alaska.

The Native 8(a) program demonstrates Congress' commitment to promoting tribal self-determination and self-sufficiency. This business development program reflects the unique character of Native communities and their responsibility to provide governmental services and other benefits to their members.

In addition, tribal governments have a severely limited tax base. Tribes cannot impose property taxes on trust land, and an additional income tax on a community already facing high unemployment and poverty rates is not feasible. In sum, tribal citizens often have greater service needs than their non-Native counterparts, and at the same time, tribal governments have fewer resources with which to fulfill their governmental responsibilities to their citizens. Meaningful economic development is sorely needed.

Because of the high unemployment rates in tribal communities, Native capacity building is often the key goal of tribal governments. In its 2006 Report, the GAO found that management training programs were common among Native-owned businesses and sought to encourage the recruitment, training, and development of Native employees.²³ These businesses use internships, scholarships, on the job training, and subcontracting opportunities to build their own talent. This process can be slow and arduous as multi-generational poverty has taken its toll on worker preparedness, but success can be significant when it is achieved.

Benefits derived from Native-owned businesses go beyond developing local Native capacity through scholarships, internships, and employment. Other benefits, that are just as important, have begun to take hold and advance self-determination, ensure cultural preservation, and ameliorate dire social conditions. For example:

- Native people serve as role models for fellow tribal members and are valued for their contribution to community. Native-owned businesses provide an opportunity for

²³ US GAO, (GAO-06-09) 2006, 81.

American Indians and Alaska Natives to see one of their own go to college, get a job, or better still, work toward a career. These positive role models can increase community and individuals' hope for the future as well as provide inspiration.

- Business capacity is developed in the local community when tribal members and shareholders gain transferable business skills, like financial literacy, strategic planning, and management. These skills are necessary for all aspects of economic and community development. Native community members may choose to utilize their skills in variety of ways: to start a local business as a supplier, or provide a service that has been lacking in the community.
- Leadership capacity is developed when Native boards gain experience in making decisions that will directly affect the lives of their family, neighbors, and communities.

Similarly, Native-owned businesses can form joint ventures with large companies utilizing federal programs such as the Small Business Administration's (SBA) Mentor-Protégé Program. The use of teams and joint ventures are encouraged by the federal government as a means to stimulate growth, forge new business relationships, and develop expertise.

For example, Mandaree Enterprise Corporation faced bankruptcy in 1994. The tribal government owners, the Mandan, Hidatsa, and Arikara Nations of the Ft. Berthold Reservation in North Dakota hired a CEO to develop a turn-around strategy. Mandaree Enterprise became certified in the 8(a) Business development program and grew rapidly as it expanded into government contracting. Part of its success was due to its participation in Department of Defense's (DoD) Mentor-Protégé Program, which encourages major defense prime contractors to work in tandem with small disadvantaged businesses to develop their business and enhance their technical capabilities. The ultimate goal is to enhance the potential contributions of protégés, like Mandaree Enterprise Corporation, thus allowing them to more effectively compete for defense-related work. Through this program, Mandaree Enterprise Corporation developed a relationship with Northrop Grumman which contributed to their capabilities in manufacturing cables, wire harnesses, and circuit boards. Mandaree Enterprise Corporation and Northrop Grumman twice received special recognition from DoD by winning the Nunn-Perry award.

Recommendations related to Native-owned business development

Congress can partner with tribes in addressing challenges to business development by:

- Fully funding federal programs that support efforts to develop Native-owned businesses
- Continuing to support the importance of contracting opportunities for Native-owned businesses
- Providing support for management training programs and other strategies to develop human capital to run Native-owned businesses

- Funding data collection methods that clearly define the opportunities and challenges with respect to business development in Indian Country and clearly delineates Native participation in the 8(a) program

Conclusion and Recommendations

This testimony has highlighted the unique challenges tribes and their members have faced for generations. NCAI's member tribes, and their citizens, face significant challenges – particularly in the midst of the economic crisis. We look forward to working with the members of the Committee to ensure that:

1. The recovery is fair and equitable – especially for America's most vulnerable communities
2. Unemployment data is available to measure the extent of the crisis and recovery, and opportunities to partner with tribes and tribal colleges are not missed
3. We work toward a future where Native people have the same opportunities for homeownership that so many Americans take for granted
4. Small business opportunities – at the heart of rural and reservation economies – are supported and expanded through effective federal investments to expand the economic impact of Native-owned businesses

As we move forward in addressing these challenges, it is critical to realize that tribal communities offer unique innovations that can make significant contributions to the policy debate regarding the economic crisis and the prospects for a fair and equitable recovery for all Americans. We look forward to partnering with the Committee, as critical members of the federal policymaking community, to ensure tribes are included in developing and benefiting from a healthy economic future for all Americans.