

S. HRG. 117-505

**SETTING NEW FOUNDATIONS: IMPLEMENTING THE
INFRASTRUCTURE INVESTMENT AND JOBS ACT
FOR NATIVE COMMUNITIES**

HEARING

BEFORE THE

COMMITTEE ON INDIAN AFFAIRS

UNITED STATES SENATE

ONE HUNDRED SEVENTEENTH CONGRESS

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**SETTING NEW FOUNDATIONS:
IMPLEMENTING THE INFRASTRUCTURE
INVESTMENT AND JOBS ACT FOR NATIVE
COMMUNITIES**

WEDNESDAY, MAY 4, 2022

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

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

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

The CHAIRMAN. Good afternoon and welcome.

Federal funding for infrastructure in Native communities across the Country has long lagged behind the need. From housing to clean water access to surface transportation, substandard infrastructure continues to impact the everyday lives of Native Americans.

Last year, tribal organizations representing more than 580 tribes from across the Country wrote to Congress detailing the unmet infrastructure needs of their communities across almost every sector and urged development of an Indian Marshall Plan to address these inadequacies.

We listened and we acted. Thanks to the bipartisan leadership of many on this Committee, the Infrastructure Investment and Jobs Act contains more than \$11 billion in dedicated resources for Native communities to improve crumbling roads and bridges throughout Indian Country, provide tribes with access to adequate water and sanitation, enhance broadband services for Native communities, and strengthen tribal climate resiliency among other critical infrastructure priorities.

Today, we will examine the implementation status of those provisions six months after the law has passed. We will hear from Federal agencies in charge of this historic Federal investment and learn how such investments are poised to deploy and improve infrastructure in Native communities across the Country.

The Bipartisan Infrastructure Law is just the first step to address the poor infrastructure conditions in Native communities, tribal hospitals, schools, detention facilities, and other critical in-

frastructure are top of mind. For Native Hawaiians in particular, we still have a lot of work to do.

I am pleased to announce that the Committee will hold a field hearing in Hawaii, the first in more than 10 years, to continue our work to ensure equitable access to Federal infrastructure resources for Native Hawaiians.

I would like to extend a warm welcome and aloha to Mr. Yoshimi and to our other witnesses joining us today. I look forward to your testimony and our discussion.

I will turn it over to my friend, the Vice Chair, for her opening statement.

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

Senator MURKOWSKI. Thank you, Mr. Chairman.

To our witnesses, thank you for being here this afternoon. We appreciate it.

Chairman Schatz, I appreciate the opportunity that we have before the Committee to focus on this significant measure, the Infrastructure Bill that was passed into law last year.

I spent a lot of time last year working to advance this to make sure that we were able to get it over the finish line. Now we are in the harder stage, and that is implementation and ensuring its success. That starts with robust Federal oversight of the Federal agencies charged with the extraordinary responsibility of implementing the law which in many cases involves setting up brand new programs and ramping up existing programs on a much larger scale. It is clearly no easy task.

I want to extend my thanks to the four Federal agencies that are represented here today and an appreciation for the participation in the Federal Grant Symposium that I hosted in Anchorage last month.

I also want to thank Nicole Borromeo and AFN for your contributions. The in-person participation to help tribal, State, and local leaders begin to navigate this massive new law was pivotal to the success of the event that we had. I am hopeful we were able to really develop some good partnerships so that as these programs and the grant opportunities come together, Alaskans know who to call and can begin to prioritize in that way.

So much is included within the opportunities here. Even before the Infrastructure Bill, where we saw Federal resources coming together, on broadband, we worked to build to create the Tribal Broadband Connectivity Grant Program, funding that at \$1 billion through our 2020 year-end appropriations. Then the COVID-19 relief bill with the infrastructure law, not only building up the broadband but everything else that came with it.

As we are seeing with tribal broadband and many other programs funded in the law, successful implementation is going to require interagency coordination, robust tribal consultation, and intergovernmental collaboration at all levels, and the development of a workforce that includes members of the local Native community.

Many of the comments and questions that we picked up from Alaskans and Native leaders have two themes. The first theme is

optimism about the unprecedented level of funding. But the second theme is concern about missing out on this once in a generation opportunity. I am pleased we have these Federal agencies to testify about how they are going to ensure that the Bipartisan Infrastructure Law will in fact meet the needs across Indian Country.

Where grants are competitive, technical assistance will be paramount to making sure areas of highest need are not left behind. After two years of the pandemic, many of our tribal administrators and our Native leaders are maxed out, they are stretched thin. I am going to be very interested in hearing how the Administration is taking an all-of-government approach in making tribes aware of all of the relevant opportunities.

Again, I want to welcome our witnesses not only on this panel present with us but also those who are virtual. A particular shout out and welcome to Nicole Borromeo. She is the Executive Vice President and General Counsel for the Alaska Federation of Natives. Again, I would mention AFN has been working really hard to help Alaska Natives navigate the many Federal and State agencies that are distributing funds and providing services.

I thank her for participating and I will look forward with great interest to the testimony from both panels today.

The CHAIRMAN. Thank you, Vice Chair.

We will now introduce our panelists. We have Mr. Wizipan Garriott, Principal Deputy Assistant Secretary for Indian Affairs at the Department of the Interior; Ms. Elizabeth Fowler, Acting Director, Indian Health Service, U.S. Department of Health and Human Services; Mr. Timothy Hess, Associate Administrator for Federal Lands at the Federal Highway Administration, U.S. Department of Transportation; and Adam Geisler, Division Chief, Tribal Connectivity and Nation-to-Nation Coordination, National Telecommunications and Information Administration.

I want to remind our witnesses that your full written testimony will be made a part of the record and would encourage you to confine your verbal remarks to five minutes or less.

With that, welcome, Mr. Garriott. Please proceed.

STATEMENT OF WIZIPAN GARRIOTT, PRINCIPAL DEPUTY ASSISTANT SECRETARY, INDIAN AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR

Mr. GARRIOTT. Hello and good afternoon, Chairman Schatz, Vice Chairman Murkowski, and members of the Committee.

Iyuha cante nape ciyuzapelo. I greet you with a good heart.

My name is Wizipan Garriott. I am a citizen of the Rosebud Sioux Tribe. I serve as Principal Deputy Assistant Secretary for Indian Affairs at the U.S. Department of the Interior. Thank you for the opportunity to provide a statement on behalf of the Department on implementation of the historic Infrastructure Investment and Jobs Act, also known as the Bipartisan Infrastructure Law.

Per the direction of the Chairman, I will summarize my previously prepared verbal statement to hit some of the high points and cut down on some of the time.

The infrastructure law provided over \$13 billion directly set aside for tribal projects and for tribes. Of that, \$3.1 billion was al-

located to the Department of Interior for which tribes are eligible to apply.

We started our implementation on the right foot, I believe, through tribal consultation. It was not just for the Indian Affairs programs but really for all of the funding. There were three consistent themes: interagency coordination, technical assistance, and streamlining the permitting processes.

The White House Council on Native American Affairs meets regularly and BIL implementation is a regular topic of discussion in which we get to work with our other sister Federal agencies. In addition, we are in the process right now of hiring an interagency coordinator position which will provide direct technical assistance to tribes and tribal applicants not only for Interior funding but across the entire government, as well as another position that is more regional, focused on climate resiliency.

Additionally, we know that the success of this funding is going to be dependent on rights-of-way, business leases and us at the Department of Interior doing our job so that when projects are funded, money and projects can be deployed as quickly as possible.

Indian Affairs overall, we received \$466 million directly that we are responsible for; \$216 million of that was for tribal climate resilience, adaptation, and community relocation; \$250 million was for irrigation and power and safety of dams, and water sanitation. In addition, \$2.5 billion was provided for water settlements, of which \$1.7 billion has been deployed by Indian Affairs. Additionally, \$150 million was allocated for orphan wells on tribal lands.

Finally, the department was provided with \$905 million for ecosystem restoration and resilience funding. Tribes are eligible to apply for that funding.

The department is thankful for the leadership of the members of this Committee and their continued support for Indian Country and everything that you do.

I will conclude my remarks and be happy to answer any questions the Committee may have.

[The prepared statement of Mr. Garriott follows:]

PREPARED STATEMENT OF WIZIPAN GARRIOTT, PRINCIPAL DEPUTY ASSISTANT SECRETARY, INDIAN AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR

Good afternoon, Chairman Schatz, Vice Chairman Murkowski, and members of the Committee. Thank you for the opportunity to provide a statement on behalf of the Department of the Interior (Department) on implementation of the Infrastructure Investment and Jobs Act (IIJA), also known as the Bipartisan Infrastructure Law (BIL), for Native Communities. I greatly appreciate the lead title for this hearing, "Setting New Foundations". As transformative legislation, IIJA is setting a new foundation due to the significant level of resources provided, and the opportunity created to improve service delivery and advance self-determination across Indian Country.

IIJA Funding for Indian Affairs and Across the Department

In total the IIJA invests more than \$13 billion directly in Tribal communities across the country and Tribes may apply for billions more through various grant processes being deployed throughout other agencies. These resources go to many Federal agencies to expand access to clean drinking water for Native communities, ensure every Native American has access to high-speed Internet, tackle the climate crisis, advance environmental justice, and invest in Tribal communities that have too often been left behind.

The Department received over \$3.1 billion directly for Tribal communities, which included a \$466 million investment for the Bureau of Indian Affairs infrastructure

projects and climate resiliency initiatives, \$150 million for Tribal orphan wells, and a historic investment of \$2.5 billion to help the Department fulfill pre-existing settlements of Indian water rights claims. The IIJA also made Tribal communities eligible for additional Department programs to support building resilience to wildland fire and drought, restoring ecosystems, enabling fish passage, and addressing legacy pollution from abandoned mine lands and orphan oil and gas wells.

Consistent with the Administration's commitment to consult with Tribes and support self-determination the Department began implementation with three Tribal consultations covering all programs for which Tribes are eligible. The consultations were completed within the timeframes necessary to inform spend plans that were required by the IIJA. The consultations served both to increase awareness of funding opportunities for Tribes and to gather input from Tribal leaders. There were three consistent themes: interagency coordination; technical assistance, and streamline permitting. As the IIJA programs will be implemented over several years, future consultations may be necessary.

Additionally, the Bureau of Reclamation (Reclamation) continues to conduct Tribal consultation on investing IIJA funding with a commitment to supporting Reclamation's strong relationships with Tribal communities. Starting in December and continuing through the spring, Reclamation hosted consultation sessions with Tribal leaders on IIJA implementation. Reclamation also conducted separate outreach sessions for Tribes and appreciated the opportunity to hear from these communities about the effectiveness of its BIL-funded programs. These Tribal consultation sessions provided additional ideas for broadening outreach to Tribes who are eligible for Reclamation's BIL-funded programs described below.

Creating a Whole of Government Approach and Maximizing Impact

Indian Affairs is often called upon by Indian country to represent the needs of Indian country and help drive an all of government approach to maximizing the many opportunities for Indian country. We are working to implement Indian country's recommendations through interagency coordination, technical assistance, process improvement, and leveraging of acquisition authorities.

Enhancing Coordination

Successful implementation of the IIJA requires significant consultation, coordination, and leveraging of partnerships. Within the Department, weekly coordination meetings with all bureaus and Departmental leadership ensure the needs of Tribes are considered for all Department IIJA programs.

We are also engaging across the Federal government with several coordination strategies. First, we are leveraging existing interagency coordinating venues. This starts with the White House Council on Native American Affairs (WHCNA). The Department, in coordination with WHCNA, is uniquely positioned to define and communicate the benefits of the infrastructure law to Indian Country. The various subcommittees of the WHCNA are critical to Federal coordination and communication. We are also engaging with the White House Office of Intergovernmental Affairs to produce a Tribal Playbook which clarifies all the IIJA funding opportunities available to Tribal communities. Second, across programmatic areas, our team is leveraging interagency coordination through ongoing participation in the White House Tribal Broadband Coordination Committee and working with the Council on Environmental Quality's climate resilience working groups and the Environmental Protection Agency-led Water Infrastructure Task Force.

Technical Assistance

The need to provide technical assistance to Tribes cannot be overstated. Therefore, the Indian Affairs spend plan included the creation of an Interagency Coordinator position who will assist Tribes and Tribal organizations identify and apply for available funds. The incumbent in this position will also be charged to work within the federal family to assist sister federal agencies in making their programs more accessible to Indian country.

Streamlining Processes

Timely approval of permitting and realty actions are critical to infrastructure investment in Indian Country. To this end, BIA recently announced a National Policy Memorandum (NPM-TRUS-44) which streamlines the rights-of-way (ROWs) and business lease application process for projects funded by the American Rescue Plan Act and Infrastructure Investment and Jobs Act (IIJA), as well as Telecommunications and Renewable Energy Projects. This action advances the policy of the BIA to support Tribal Nations in exercising their sovereignty to govern their lands and pursue economic self-sufficiency, conservation practices, and climate resiliency. Specifically, this National Policy Memorandum provides clear direction to ensure that

ROWs and business leases are expedited so there is no unnecessary delay in deploying critical infrastructure to Indian country. Additionally, the fiscal year (FY) 2023 President's Budget requests an additional \$2 million that will allow the BIA to increase staffing for realty functions which are critical to infrastructure investment.

Leveraging Buy Indian Act Authorities

Indian Affairs is also working to expand the impact of IIJA and other infrastructure funding by increasing the use of Buy Indian Act authorities. This is being done by focusing on engaging with and maximizing opportunities for Indian small businesses, and using an integrated approach of policies, procedures, training, and strategic contract implementation. The recent update to Buy Indian Act regulations are a critical step forward. The updates allow the Department to eliminate barriers to Indian Economic Enterprises from competing on certain construction contracts, expand Indian Economic Enterprises' ability to subcontract construction work consistent with other socio-economic set-aside programs, and give greater preference to Indian Economic Enterprises when a deviation from the Buy Indian Act is necessary, among other updates. The update also aligns Indian Affairs and Indian Health Service regulations to facilitate more contracting opportunities for eligible entities under the Buy Indian Act. In order to leverage this rule change, Indian Affairs will solicit proposals from Native-owned construction businesses for a new \$1.5 billion nationwide contract that will cover a wide range of projects for bureaus across the Department.

Implementation of Department Programs Directly Benefiting Tribes

Meeting Our Obligations for Indian Water Rights Settlements

In February, the Department announced allocations totaling \$1.7 billion for enacted Indian water rights settlements that have outstanding federal payments necessary to complete their terms. This funding allows the administration to uphold our trust responsibilities and ensure Tribal communities receive the water resources they have long been promised. These investments promote economic development and ecosystem restoration. For example, the funding allocated to the Confederated Salish and Kootenai Tribes will be used to rehabilitate and modernize the Flathead Indian Irrigation Project and restore damages to fish and wildlife habitat, while providing water for farmers and ranchers who depend on irrigation for their livelihoods. As part of the implementation strategy, an Indian Water Rights Settlement Completion Fund Executive Committee was established, comprised of the Commissioner of the Bureau of Reclamation, Chairperson of the Working Group on Indian Water Settlements, Director of the Bureau of Indian Affairs, Assistant Secretaries of Water and Science and Indian Affairs, and the Solicitor. The Executive Committee will recommend future allocations of the remainder of the Completion Fund to the Secretary. In order to complete allocations of remaining funding, BIA is engaging with Tribes to finalize indexing costs which are necessary to determine their final settlement payments. The Bureau of Reclamation will continue to work with the Department to identify project specific allocations from the Fund to meet implementation needs.

Advancing Climate Resilience

The IIJA included \$216 million for Tribal climate resilience, adaptation, and community relocation planning, design, and implementation of projects which address the varying climate challenges facing Tribal communities across the country. Within this total, \$130 million is directed toward Community Relocation and \$86 million is directed toward Climate Resilience and Adaptation Projects. Total funding of \$43.2 million is available each year for fiscal years 2022–2026.

On April 11th, Indian Affairs announced the request for proposals from Tribes and Tribal organizations for approximately \$46 million from the Bureau of Indian Affairs Branch of Tribal Climate Resilience which is funded by the IIJA and FY 2022 annual appropriations. Tribal needs are diverse. Each Tribe has its own various climate resilience capacities, needs, and issues to address. The existing Tribal Climate Resilience Awards Program has been focused on training, capacity building, and planning since its inception in 2011. IIJA funds will enable BIA to expand the Awards Program to start funding implementation projects developed from their plans.

In addition to the Awards Program, the Department will announce Community Relocation pilot projects in a few communities to serve as demonstration sites. The sites will be chosen based on factors such as risk level, community-readiness, existing plans, and potential to yield lessons-learned for other Tribes facing similar issues. A study conducted by BIA estimated that addressing unmet infrastructure needs associated with relocation will cost \$4.8 billion in Alaska and the lower 48.

Given this significant cost of implementing community relocation, effective coordination with Federal, State, local and NGO partners is critical to ensuring we successfully increase resilience of Native communities. Leveraging additional federal funding will be critical to success.

Investing in Irrigation and Power, Safety of Dams and Water Sanitation Improvements

The IIJA included \$250 million for Irrigation and Power, Safety of Dams and Water Sanitation, with \$50 million available to spend annually. This funding is critical to address our deferred maintenance backlog in these areas. In FY 2022, \$10.65 million is allocated for water sanitation. Water and Sanitation project funding has been coordinated with the Indian Health Services and will be used to support improvement and repair projects that address public health and safety compliance issues at Indian Affairs-owned drinking water and sanitation systems. In FY 2022, \$10 million is allocated for Irrigation and Power projects; within this total approximately 70 percent will be directed to Indian Irrigation Projects and the remaining 30 percent will support BIA-owned power utilities. BIA will prioritize funding of projects that reduce deferred maintenance and the risk of failure and align with condition assessments and modernization studies to rehabilitate aging infrastructure. For Safety of Dams, \$29.1 million is allocated in FY 2022 to begin addressing the \$1 billion deferred maintenance backlog for BIA owned dams. The allocation of funding is planned to follow current program practices which prioritize project funding. The BIA routinely performs inspections and analysis of all high-hazard program dams to understand the risk each structure presents to downstream residents. BIA uses the results of this work to prioritize distribution of design and construction funding to the highest risk dams. We plan to start announcing project funding allocations for each of these programs in May.

Outside of Indian Affairs, our team continues to collaborate with other Department programs on program implementation in areas such as wildland fire, ecosystem restoration, abandoned mine lands and orphan wells. Similarly, we are engaged with partners in other Federal agencies to support their engagement with Tribes. I look forward to updating the Committee in the future about how IIJA funding from our partners benefit Indian Country.

Western Water Infrastructure

The \$8.3 billion investment under Title IX (Western Water Infrastructure) of the IIJA supports Reclamation's ongoing work to improve water infrastructure while promoting racial and economic equity. IIJA provides significant funding for long-standing Reclamation programs including WaterSMART, which has been identified by numerous Tribes across the West as an essential program for enhancing water infrastructure and attenuating drought conditions. IIJA funding will expand the reach of WaterSMART and allow Reclamation to leverage additional resources, including funding and technical assistance provided by Reclamation's Native American Affairs Program, to modernize infrastructure and increase water reliability and resilience for Native communities.

Other Funding

The IIJA provided the Department with \$905 million for Ecosystem Restoration and Resilience funding, of which \$464.6 million is made available to various bureaus, including BIA. The range of projects funded include restoration of ecological health by improving forest health and reducing the risk of resource loss to environmental factors such as insects, disease, and wildfire. This investment will provide for adaptation/plant ecologists to provide regional technical expertise to support ecological restoration efforts on Indian lands at various USGS Climate Adaptation Science Center regions. Additionally, the Department is providing funding to the recently announced America the Beautiful Challenge Fund administered through the National Fish and Wildlife Foundation. Tribes will be eligible to compete for these grants.

Conclusion

The Department is thankful to the leadership and members of the Committee for their continued support for Indian country and the IIJA. The Department looks forward to continuing to work with the Committee on implementing this once in a generation opportunity for Indian country.

The CHAIRMAN. Thank you very much.
Ms. Fowler.

**STATEMENT OF ELIZABETH FOWLER, ACTING DIRECTOR,
INDIAN HEALTH SERVICE, U.S. DEPARTMENT OF HEALTH
AND HUMAN SERVICES; ACCOMPANIED BY: RADM MARK
CALKINS, P.E., ASSISTANT SURGEON GENERAL, U.S. PUBLIC
HEALTH SERVICE; DIRECTOR, DIVISION OF SANITATION
FACILITIES CONSTRUCTION, INDIAN HEALTH SERVICE**

Ms. FOWLER. Good afternoon Chairman Schatz, Vice Chairman Murkowski, and members of the Committee.

I too want to say thank you for the opportunity to provide updates on the Indian Health Service programs benefitting American Indian and Alaska Native communities under the Infrastructure Investment and Jobs Act. I want to also express our appreciation for the \$3.5 billion that was appropriated to the Indian Health Service under this Act.

At the end of fiscal year 2021, about 1.9 percent of all American Indian and Alaska Native homes tracked by IHS lacked water supply or wastewater disposal facilities. Approximately 29 percent of American Indian and Alaska Native homes tracked by IHS were in need of some form of sanitation facility improvements.

Many of these homes without service are typically located in remote locations which means the capital costs to construct these facilities are significantly higher than provision of similar facilities in other geographic locations. Additionally, the cost burden associated with operation and maintenance of these facilities usually exceeds the capacity of the tribal utility to generate sufficient revenue from the system users to support ongoing operation.

In collaboration with tribes, IHS annually updates the sanitation deficiency system project listing to account for the addition of newly identified sanitation deficiencies and to update cost estimates. The Infrastructure Investment and Jobs Act appropriated a total of \$3.5 billion to the IHS Sanitation Facilities Construction Program and includes \$700 million annually from fiscal year 2022 to fiscal year 2026.

The funds will support the construction of water, wastewater, and solid waste facilities in American Indian and Alaska Native Tribes and communities. The IHS support for these facilities is an integral component of IHS disease prevention activities. Research supported by the Centers for Disease Control and Prevention states, "Populations and regions with a lower proportion of homes with water service reflect significantly higher hospitalization rates for pneumonia, influenza and respiratory syncytial virus." Researchers associated the increase in illnesses with the restricted access to clean water for handwashing and hygiene.

IHS initiated tribal consultation on the Infrastructure Investment and Jobs Act funding in November of 2021 to seek input into the agency's funding allocation plans. I am pleased to say that the Indian Health Service is nearing publication of funding allocation decisions for the \$700 million in fiscal year 2022 funds. Now that the fiscal year 2022 final appropriation is enacted, the IHS also is taking the \$198 million provided in annual appropriations for the SFC Program into consideration and finalizing the Infrastructure Investment and Jobs Act spend plan.

We look forward to continuing our work with Congress related to the Sanitation Facilities Construction Program and the use of our

Infrastructure Investment and Job Act funds to make improvements in tribal communities.

I would like to let you know that I am accompanied today by the Director of our Sanitation Facilities Construction Program, Rear Admiral Mark Calkins.

That will conclude my remarks. I am happy to answer any questions you might have.

[The prepared statement of Ms. Fowler follows:]

PREPARED STATEMENT OF ELIZABETH FOWLER, ACTING DIRECTOR, INDIAN HEALTH SERVICE, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Good afternoon Chairman Schatz, Vice Chairman Murkowski, and Members of the Committee. Thank you for the opportunity to provide an update on Indian Health Service (IHS) programs benefitting American Indian and Alaska Native communities under the Infrastructure Investment and Jobs Act (IIJA).

The IHS is an agency within the Department of Health and Human Services (HHS) and our mission is to raise the physical, mental, social, and spiritual health of American Indians and Alaska Natives to the highest level. This mission is carried out in partnership with American Indian and Alaska Native Tribal communities through a network of over 687 Federal and Tribal health facilities and 41 Urban Indian Organizations (UIOs) that are located across 37 states and provide health care services to approximately 2.7 million American Indian and Alaska Native people annually.

Sanitation Facilities Construction Program

The 1988 amendments to the Indian Health Care Improvement Act require IHS to maintain inventories of sanitation deficiencies for existing Indian homes and communities, to prioritize those deficiencies, and to annually report those deficiencies to Congress. Since 1989, IHS has annually reported these needs to Congress in the form of projects, which are currently catalogued in the Sanitation Deficiency System (SDS). Projects are identified in terms of the facilities to be provided, the cost of those facilities, and the number of homes to be served by the facilities. Funding for projects is distributed to the Areas based on an allocation formula that takes into account the relative needs identified in each Area's SDS inventory. The Sanitation Facilities Construction (SFC) program employs a cooperative approach for planning, designing and constructing sanitation facilities serving American Indian and Alaska Native communities. Each project is initiated at the request of a Tribe or Tribal Organization, and coordination is maintained throughout project planning, design and construction.

At the end of fiscal year (FY) 2021 about 7,228, or 1.9 percent of all American Indian and Alaska Native homes tracked by IHS lacked water supply or wastewater disposal facilities; and, about 108,459 or approximately 29 percent of American Indian and Alaska Native homes tracked by IHS were in need of some form of sanitation facilities improvements. Many of these homes without service are typically located in remote locations such as on the Navajo Nation and in some remote Alaska Native Villages. The capital cost to construct these facilities are significantly higher than the provision of similar facilities in other geographic locations. Additionally, the cost burden associated with operation and maintenance of these facilities usually exceeds the capacity of the Tribal utility to generate sufficient revenue from the system users to support ongoing operation.

The IHS tracks sanitation projects in the SDS. The list of sanitation projects in the SDS is not static. In collaboration with Tribes, IHS annually updates the SDS project listing to account for the addition of newly identified sanitation deficiencies and to update cost estimates due to increases related to inflation, labor and material costs, and project scope changes.

At the end of FY 2021, the SDS included 1,513 projects. Of this total, 945 projects were feasible and 568 projects were infeasible with a combined total database cost estimated at \$3.4 billion in eligible costs and an additional \$735 million in ineligible costs that will have to come from other non-IHS funding resources.

Ineligible costs are the costs associated with serving commercial, industrial, or agricultural establishments, including nursing homes, health clinics, schools, hospitals, hospital quarters, and non-American Indian and Alaska Native homes. The Sanitation Facilities Construction Act prevents the IHS from using its appropriations for these costs. However, the IHS regularly partners with Tribes and other Federal Agencies to identify alternative resources to successfully support these ineligible

costs. If our Federal funding partners are not able to contribute financial support for the projects that have IHS ineligible costs, those projects will not be fully funded and hence cannot be completed.

Economically infeasible projects are those that exceed a per unit cost set for each IHS Area, and three different regions within the IHS Alaska Area. While there was not a statutory barrier to funding economically infeasible projects, the IHS had not been able to fund these projects in light of limited annual appropriations before the IIJA was enacted. The IIJA provided \$2.2 billion for economically infeasible projects.

The IHS categorizes SDS projects into three Tiers depending on a project's progress toward completing planning activities.

- Tier 1 projects are considered ready to fund because planning is complete. However, design and construction contract document creation activities are not yet complete for current Tier 1 projects. These projects then move through the design and construction contract document creation steps before a construction contract can be initiated through Federal or Tribal procurement methods.
- Tier 2 projects are projects that have a level of engineering assessment completed, such that the deficiency is understood and a recommended solution has been analyzed and scoped; these projects have a cost estimate and design parameters that are accurate within plus or minus 25 percent.
- Tier 3 projects are projects with cost estimates and design parameters that do not have a specific accuracy target, but are based on the best information available at the time of submission. These projects demonstrate that an eligible deficiency has been identified, but the Area may not have determined the recommended solution.

The IHS also assigns a Deficiency Level to each project in the SDS. Deficiency Levels are assigned in accordance with section 302(g)(4) of the Indian Health Care Improvement Act (IHCIA) (25 U.S.C. §1632(g)(4)) for each sanitation facilities project that has been identified as a need to support Indian Tribes and communities. The Deficiency Levels are explained in the table below.

Sanitation Deficiency Level	Description
V	An Indian tribe or community that lacks a safe water supply and a sewage disposal system.
IV	An Indian tribe or community with a sanitation system which lacks either a safe water supply system or a sewage disposal system.
III	An Indian tribe or community with a sanitation system which has an inadequate or partial water supply and a sewage disposal facility that does not comply with applicable water supply and pollution control laws, or has no solid waste disposal facility.
II	An Indian tribe or community with a sanitation system which complies with all applicable water supply and pollution control laws, and in which the deficiencies relate to capital improvements that are necessary to improve the facilities in order to meet the needs of such tribe or community for domestic sanitation facilities.
I	An Indian tribe or community with a sanitation system which complies with all applicable water supply and pollution control laws, and in which the deficiencies relate to routine replacement, repair, or maintenance needs.
0	No deficiencies to correct.

SFC projects can be directly operated by the IHS through Federal Acquisition Regulation contracts or through Tribal procurement. Tribes can directly operate SFC projects through Indian Self-Determination and Education Assistance Act construction contracts (25 C.F.R. 900 Subpart J, 42 C.F.R. 137 Subpart N).

Infrastructure Investment and Jobs Act

The IIJA appropriated a total of \$3.5 billion to the IHS SFC program. The Act includes \$700 million annually from FY 2022 through FY 2026. The Act includes a maximum 3 percent (\$21 million) set-aside for salaries, expenses, and administration each year. These funds are limited to Federal costs only. It also directs that the IHS provide 0.5 percent (\$3.5 million) each year to the Office of the Inspector General for oversight of these funds. Finally, the Act also directs the Agency to use up to \$2.2 billion of the \$3.5 billion appropriation on economically infeasible projects.

The IIJA funds will support the construction of water, wastewater, and solid waste facilities in American Indian and Alaska Native tribes and communities. The IHS support for these facilities is an integral component of IHS disease prevention activities. As a result, infant mortality rates and mortality rates for gastroenteritis and other environmentally-related diseases have declined. Research supported by the Centers for Disease Control and Prevention states populations in regions with a lower proportion of homes with water service, reflect significantly higher hospitalization rates for pneumonia, influenza, and respiratory syncytial virus.¹ Researchers associated the increasing illnesses with the restricted access to clean water for hand washing and hygiene.

The SFC Program works collaboratively with Tribes to assure all American Indian and Alaska Native homes and communities are provided with safe and adequate water supply and waste disposal facilities. The residents of these homes will benefit from reduced health care cost associated with water related illnesses. The IHS estimated in FY 2021 that for every \$1 in funding provided for sanitation facilities resulted in \$1.23 in avoided medical cost related to inpatient and outpatient visits related to respiratory, skin and soft tissue, and gastro enteric disease. As required by the bill, IHS will update the Congressional spend plan for these funds annually through FY 2026.

Using Infrastructure Investment and Jobs Act Funds

In November 2021, the IHS initiated Tribal Consultation on the IIJA funding to inform Tribes about the Agency's funding allocation plans. The common themes from Tribal Consultation noted that the IHS should:

- Use the data in the SDS to allocate funds, and follow the direction of the IIJA by providing support for economically infeasible projects;
- Prioritize the allocation of funds where the majority of the funds can be used to immediately construct projects;
- Provide sufficient funding for planning and design activities to get projects ready to fund, and weigh these resources toward projects that address higher sanitation deficiency levels;
- Coordinate with Tribes and other Federal agencies, like the United States Department of Agriculture (USDA) and the Environmental Protection Agency (EPA), to develop a plan to address ineligible costs and discuss how to maximize community benefit of the projects;
- Create a plan to address the full need for SFC projects in Tribal communities, and remove any unnecessary limitations that were previously used to allocate limited funding;
- Continue to seek annual, ongoing funding to address the full scope of SFC needs, including requesting any additional administrative costs necessary to implement the IIJA funds; and
- Increase funding for special and emergency projects, in light of the significant new funding for the SFC.

The IHS is nearing publication of funding allocation decisions for the \$700 million in FY 2022 IIJA funds. Now that the FY 2022 final appropriation is enacted, the IHS is taking \$198 million provided in annual appropriations for the SFC program into consideration in finalizing the IIJA spend plan. Final decisions on FY 2022 IIJA funding will be communicated in a Dear Tribal Leader Letter.

Historically, IHS has received limited program support resources to address the SFC project workload. SFC project funding has increased since FY 2018, and the IIJA funding will significantly increase the SFC workload. However, the IIJA limits funding for program support activities to 3 percent per year. Given this limitation, it is possible that the average project duration could be greater than the current average project duration of 3.6 years. The IIJA also restricts program support funding to federal activities, which means that Tribes that operate their SFC projects directly cannot access these needed administrative resources.

To address this need for administrative support, the FY 2023 President's Budget requests +\$49 million in Facilities and Environmental Health Support resources to support IIJA implementation. This funding would be available for federal activities and to Tribes who compact or contract under the Indian Self-Determination and

¹Thomas W. Hennessy, Troy Ritter, Robert C. Holman, Dana L. Bruden, Krista L. Yorita, Lisa Bulkow, James E. Cheek, Rosalyn J. Singleton, and Jeff Smith. The Relationship Between In-Home Water Service and the Risk of Respiratory Tract, Skin, and Gastrointestinal Tract Infections Among Rural Alaska Natives. *American Journal of Public Health*: November 2008, Vol. 98, No. 11, pp. 2072–2078.

Education Assistance Act to implement SFC projects, unlike the administrative set-aside in the IIJA. This investment is critically necessary to maintain existing project completion deadlines and ensure successful implementation of IIJA resources.

The IHS will leverage the use of multiple strategies and available authorities to support IIJA recruitment and hiring, including the use of global and open-ended job announcements to streamline the hiring of multiple candidates for jobs across the IHS system, developing a dedicated website to focus on the recruitment of these positions, and targeting job fairs. The IHS will also explore compensation flexibilities, like special salary rates and authority to approve larger recruitment, relocation, and retention incentives. Such incentives are necessary to increase IHS' competitiveness with both private and public sector organizations.

We look forward to continuing our work with Congress related to the SFC program and the use of IIJA funds to make improvements in tribal communities. We are committed to working closely with our stakeholders and we understand the importance of working with partners to address the needs of American Indians and Alaska Natives.

The CHAIRMAN. Thank you very much, Ms. Fowler.
Mr. Hess, please proceed.

**STATEMENT OF TIMOTHY HESS, ASSOCIATE ADMINISTRATOR
FOR FEDERAL LANDS, FEDERAL HIGHWAY
ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION**

Mr. HESS. Good afternoon, Chairman Schatz, Vice Chairman Murkowski, and members of the Committee. Thank you for the opportunity to appear before you today to discuss the implementation of the Infrastructure Investment and Jobs Act, also known as the Bipartisan Infrastructure Law, especially as it relates to Native communities.

It is my pleasure to appear here today beside my colleagues, Mr. Wzipan Garriott of the Bureau of Indian Affairs; Ms. Elizabeth Fowler of the Indian Health Service; and Mr. Adam Geisler of the National Telecommunications and Information Administration.

The Bipartisan Infrastructure Law represents a once in a generation investment in our Nation's infrastructure, competitiveness, and communities. Under Secretary Buttigieg's leadership, the department is hard at work implementing this law. This includes historic and critical investments in tribal transportation.

The Federal Highway Administration, under the direction of Deputy Administrator Pollack, plays a vital role in this implementation. We have a long history of deep collaboration with tribes and I am proud of the relationships we have fostered. Maintaining and strengthening these ties is key to implementing this law successfully.

I would like to update you on a number of efforts we have underway. The Bipartisan Infrastructure Law dedicated historic levels of funding for the Tribal Transportation Program, which benefits all 574 federally-recognized tribes. Congress provided over \$3 billion over the next five years, including \$578 million for this year, a 15 percent increase from 2020 levels.

The Federal Highway Administration implements this program jointly with the Bureau of Indian Affairs, with whom we share a close and productive relationship. We are currently working to distribute Fiscal Year 2022 funds as quickly as possible.

Safety continues to be the department's top priority. Tragically, Native Americans remain the group most likely to lose their lives in car crashes. Dedicated safety funding within the TTP more than

doubled in the Bipartisan Infrastructure Law, giving us more opportunities to work together to improve safety in tribal communities. Just this morning, the Federal Highway Administration announced nearly \$9 million in grants to 51 tribes to complete 58 safety projects. We look forward to doing more with this new funding.

The Bipartisan Infrastructure Law includes an unprecedented investment in the Tribal Transportation Bridge Program providing over \$1 billion for the next five years, a 14-fold increase compared to the FAST Act. This injection of funds to build, replace and rehabilitate bridges will address a critical problem. Nearly 11 percent of the bridges for the TTP funding listed in the National Bridge Inventory are classified as in poor condition.

Under the Bipartisan Infrastructure Law for the first time half of all funding under the Nationally Significant Federal Lands and Tribal Projects Program is required to be awarded to tribal transportation facilities. We plan to publish the 2022 Notice of Funding Opportunity soon. The Tribal High Priority Projects Program will also receive funding for the first time in over 10 years. This program will fund transportation projects that may otherwise not be completed, including for tribes experiencing emergencies or disasters that render transportation facilities unusable.

The Bipartisan Infrastructure Law can only achieve its intended transformative effect if tribes can take full advantage of these opportunities. To that end, the Federal Highway Administration continues to prioritize the critical technical assistance tools to help tribes plan, fund and execute successful projects.

We are currently reviewing applications for almost \$18 million in grants to reestablish and operate seven tribal technical assistance program centers throughout the Country. We look forward to standing up these new centers and continuing to strengthen our vital relationship with tribes across the Country.

Thank you again for the opportunity to appear before you today. I am happy to answer any questions you may have.

[The prepared statement of Mr. Hess follows:]

PREPARED STATEMENT OF TIMOTHY HESS, ASSOCIATE ADMINISTRATOR FOR FEDERAL LANDS, FEDERAL HIGHWAY ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION

Chairman Schatz, Vice Chairman Murkowski, Members of the Committee, thank you for the opportunity to appear before you today to discuss implementation of the Infrastructure Investment and Jobs Act, otherwise known as the Bipartisan Infrastructure Law (BIL), as it relates to Native communities. The BIL represents a once-in-a-generation investment in our nation's infrastructure, competitiveness, and communities and provides approximately \$550 billion in new Federal infrastructure investment. This includes historic and critical investments in Tribal transportation, including increased funding to programs dedicated to Tribal needs and increased Tribal eligibility for new and existing discretionary grant programs. The BIL also created the new Department of Transportation (Department) Office of Tribal Government Affairs, which elevates Tribal Government Affairs leadership to the rank of Assistant Secretary within the Department for the first time.

The Federal Highway Administration (FHWA) has a long history of collaborating with Tribes efficiently and effectively, and I am proud of the relationships we have fostered. Maintaining and strengthening these ties is key to implementing the BIL successfully. I would like to update you on a number of efforts we have underway, which will help in achieving our shared goal of enhanced safety and improved transportation for all Tribal communities. FHWA has also launched a website with guidance on these programs and more, which can be found at <https://www.fhwa.dot.gov/bipartisan-infrastructure-law/>.

Tribal Transportation Program

The Tribal Transportation Program (TTP) is the primary mechanism for Federal investment in Tribal transportation projects. Through the BIL, Congress provided more than \$3 billion for TTP over the next five years, including \$578 million for fiscal year 2022, an increase of nearly 15 percent from 2021 levels. The TTP funds projects to provide safe and adequate transportation and public road access to and within Indian reservations, Indian lands, and Alaska Native Village communities. The program improves transportation for all 574 federally-recognized sovereign Tribal governments and is jointly administered by FHWA and the Department of Interior's Bureau of Indian Affairs (BIA).

A majority of TTP funding is distributed based on statutory formula, with set-asides dedicated to specific project types, such as transportation planning, safety, and high priority projects. With the enactment of the Consolidated Appropriations Act, 2022, FHWA and BIA are working together now to finalize calculation of the statutory formula amounts and distribute the fiscal year 2022 TTP funding to Tribes.

We look forward to working closely with Tribes in our ongoing implementation of the BIL, investing in a range of infrastructure projects that improve safety and mobility, create good jobs, protect our environment, and build a foundation for lasting economic opportunity in our communities.

Safety

Safety remains the Department's top priority and we are committed to improving safety and reducing fatalities on Indian roads. Fatalities on America's road continue to rise, with early estimates for the first nine months of 2021 showing an increase of 12 percent compared to the same period in 2020. Native Americans are more likely to lose their lives in car crashes than any other group. Deaths in traffic crashes among Native American and Alaska Native youth aged 0-19 are between two and five times higher than they are for other racial and ethnic groups. This is a crisis. We must improve transportation safety in Tribal areas.

Several programs authorized in the BIL will facilitate necessary investments in Tribal facilities and safety planning. FHWA is also working in collaboration with the National Highway Traffic Safety Administration (NHTSA) to identify best practices in Tribal crash reporting as required under the BIL, to ensure that data surrounding transportation safety in Tribal areas is accurate and comprehensive.

The Tribal Transportation Program Safety Fund (TTPSF) is dedicated to preventing and reducing transportation-related injuries and fatalities on Tribal lands. Funding for the TTPSF more than doubled in the BIL, changing from a two percent set-aside from TTP funding to four percent. For fiscal year 2022, this will mean \$23 million of grants to Tribes, up from \$9 million in fiscal year 2021. Since the TTPSF's inception in 2012, FHWA has awarded approximately \$79 million in competitive grants to 434 Tribes to develop transportation safety plans and address safety issues on Tribal transportation facilities. Historically, the amount of funding sought by Tribes has far exceeded the amount available. The funding increase that Congress provided will allow FHWA to fund more projects to improve safety in the coming years as we work toward the Department's goal of eliminating deaths and serious injuries on our roadways. FHWA plans to announce the TTPSF awards for fiscal year 2021 very soon and is currently developing the fiscal year 2022 notice of funding opportunity.

In addition to dedicated Tribal safety funding, safety projects on Tribal lands are also eligible for funding under other programs. The Highway Safety Improvement Program (HSIP) provides resources to achieve a significant reduction in traffic fatalities and serious injuries on all public roads, including on Tribal land. HSIP funds have been used for several types of safety-related projects in Tribal areas, including installing rumble strips and guardrails, improving safety signing and pavement marking, removing roadway hazards, widening roadways, and improving roadway surface friction. Safety projects on Tribal lands may also be eligible under the Transportation Alternatives (TA) set-aside of the Surface Transportation Block Grant (STBG) Program. For example, Safe Routes to School projects on Tribal lands, which improve the ability of primary, middle, and high school students to walk and bicycle to school safely, are eligible for TA funding.

The BIL also created the Safe Streets and Roads for All (SS4A) Program and provided \$5 billion of funding over five years to develop comprehensive safety action plans (CSAP); conduct planning, design, and development activities for projects and activities contained in a CSAP; or to carryout projects and strategies identified in a CSAP. Tribes are eligible to apply for these funds and the Department hosted a pre-solicitation outreach webinar specifically for Tribal governments on April 28.

The Department anticipates publishing the notice of funding opportunity for this program soon.

Bridge Funding

The BIL includes an unprecedented investment in the Tribal Transportation Bridge Program (TTBP), increasing funding by over 14 times the level authorized in the Fixing America's Surface Transportation (FAST) Act (P.L. 114-94). This injection of new funds will address a critical problem and could not come at a better time. According to the 2020 National Bridge Inventory (NBI), nearly 11 percent (882 out of 8,060) of the bridges eligible for TTP Bridge funding in the NBI are classified as in poor condition.

Tribes will receive over \$1 billion over the next five years under the TTBP primarily for new construction, replacement, and rehabilitation of bridges. The BIL eliminated the three percent set-aside from the TTP that funded Tribal bridge projects in the past. Instead, funding for Tribal bridges is now drawn in part from a three percent set-aside in the new Bridge Replacement, Rehabilitation, Preservation, Protection, and Construction Program (Bridge Formula Program), which received \$27.5 billion over five years from the BIL, the single largest dedicated bridge investment since the construction of the Interstate highway system. Projects using these funds are eligible for a 100 percent Federal share. Additional Tribal bridge funding under the BIL is available from a set-aside under the Bridge Investment Program, a new discretionary grant program.

To make it as easy as possible for Tribes to apply for and receive funding to fix bridges, all of these funds will be administered under the TTBP, regardless of their origin. For fiscal year 2022, a total of \$201 million will be available to Tribes under the TTPBP. Tribes can apply for this funding at any time during the fiscal year and Tribes with FHWA agreements can seek technical assistance in preparing the application package from their tribal coordinators.

Additional Tribal Grant Programs

While the majority of TTP funds are distributed via statutory formula, as discussed above, Tribes are also able to apply to several grant programs to fund specific kinds of projects.

Nationally Significant Federal Lands and Tribal Projects Program

The Nationally Significant Federal Lands and Tribal Projects (NSFLTP) Program provides funding for the construction, reconstruction, and rehabilitation of nationally significant projects within, adjacent to, or accessing Federal and Tribal lands. Pursuant to the BIL, for the first time, half of all funding under the NSFLTP Program is required to be awarded to Tribal transportation facilities. The law made other changes that will increase the impact of this program in Tribal communities. First, the minimum required project size was reduced from \$25 million to \$12.5 million, opening the program up to a larger diversity of projects and communities that may benefit. Second, Tribes can now receive 100 percent Federal share of funding on their eligible projects. Tribes can now invest their own transportation funding in other projects, while still ensuring these larger projects are completed. FHWA plans to publish the fiscal year 2022 notice of funding opportunity for the NSFLTP that incorporates these changes soon.

Tribal High Priority Projects Program

The BIL established dedicated funding for the Tribal High Priority Projects (THPP) Program. This program provides funding to Tribes whose annual allocation under the TTP is insufficient to complete their highest priority projects or to Tribes experiencing an emergency or disaster that renders a transportation facility impassable or unusable. The BIL marks the first time in over ten years that a program focused on Tribal high priority projects has received funding, increasing available Federal resources for transportation projects that may not otherwise be completed.

Additional Discretionary Grant Programs

The BIL establishes more than a dozen new highway programs, including numerous discretionary grant programs. Tribes are eligible for many of these new grants, including these programs administered by FHWA:

- the Bridge Investment Program, to improve bridge condition, safety, efficiency, and reliability;
- the Wildlife Crossings Pilot Program, to support projects seeking to reduce the number of wildlife-vehicle collisions;

- the PROTECT Discretionary Grant Program, to fund projects relating to resilience, including planning, improvements, community resilience and evacuation routes, and at-risk coastal infrastructure;
- the Charging and Fueling Infrastructure Grant Program, to deploy electric vehicle charging and hydrogen, propane, or natural gas fueling infrastructure along designated alternative fuel corridors and in communities; and
- the National Culvert Removal, Replacement, and Restoration Grant Program, to fund projects to remove, replace, or repair culverts that would improve or restore passage for anadromous fish, the notice of funding opportunity for which is planned to be published this summer.

FHWA knows how critically important infrastructure funding is to Tribal governments, and we are working to make these funding opportunities available as quickly as possible.

Tribes are also eligible to receive funding under several other, unprecedented grant programs funded under the BIL. In January, the Department published a notice of funding opportunity for \$1.5 billion in grant funded through the Rebuilding American Infrastructure with Sustainability and Equity (RAISE) Program. The application period for that grant program has now closed. In March, the Department announced \$2.9 billion of funding for major infrastructure projects through an innovative combined notice, which included: the National Infrastructure Project Assistance (Mega) Program, the Infrastructure for Rebuilding America (INFRA) Program, and the Rural Surface Transportation Grant Program (Rural). Tribal governments and consortia of Tribal governments are eligible to apply for all of these grant programs and applications close on May 23.

The BIL also created the Reconnecting Communities Pilot Program, which aims to restore community connectivity by removing, retrofitting, or mitigating highways or other transportation facilities that create barriers to community connectivity, including barriers to mobility, access, or economic development. Congress provided \$1 billion of funding over five years, for which Tribes are eligible to apply. The Department anticipates publishing a notice of funding opportunity in June. Tribes are also eligible to apply for the Strengthening Mobility and Revolutionizing Transportation (SMART) Grant Program created in the BIL. These grants will fund demonstration projects to advance smart city or community technologies and systems to improve transportation efficiency and safety, while advancing other priorities such as climate mitigation, resilience, and equity. Finally, Tribal colleges are eligible to apply as grantees or otherwise partner with University Transportation Centers (UTCs), which support state-of-the-art in transportation research, enable technology transfer, and invest in the next generation of transportation professionals.

Technical Assistance

The BIL represents a historic investment in Tribal infrastructure projects. However, the law can only achieve its intended transformative effect if Tribes can take full advantage of the funding opportunities it provides. To that end, FHWA continues to prioritize the critical technical assistance tools that help Tribes plan projects, identify appropriate funding sources, submit successful funding applications, and effectively execute projects. FHWA's Tribal Technical Assistance Program (TTAP) has a long history of providing vital technical assistance to Tribes in administering their transportation programs. In January, FHWA published a notice of funding opportunity announcing \$17.8 million to re-establish and operate seven TTAP centers throughout the country. These new centers will align with the BIA regions and deliver valuable training and technical assistance resources with a new emphasis on program management and project delivery. This notice came after several years of significant consultations and outreach to Tribes, Federal stakeholders, and national Tribal groups to reaffirm how best to meet the technical assistance needs of Tribal communities. While these new centers are being established, FHWA has expanded its virtual training opportunities and increased support for Tribes through remote programming. Applications for TTAP Centers closed on May 2.

In addition to the assistance provided through the TTAP, FHWA's Office of Federal Lands Highway Office of Tribal Transportation provides direct funding and technical assistance to approximately 124 federally-recognized Tribes that have signed program agreements with FHWA. Each of these Tribes is assigned a Tribal Coordinator, who conducts all stewardship and oversight activities, including providing needed or requested technical assistance to help ensure each Tribe is successful in administering their transportation programs and projects. For example, the Tribal Coordinator will work with Tribes to prepare and review an application package for the Tribal Transportation Bridge Program and resolve any outstanding issues before submitting the application.

The BIL also made improvements to the environmental review process that applies to Tribal transportation projects. FHWA will ensure that decisions required under the National Environment Policy Act for Tribal transportation safety projects are made within 45 days, or as instructed by Congress. Additionally, FHWA is actively working with BIA to develop a template for programmatic agreements for categorical exclusions that can be adapted for use by individual Tribes, as well as further information and training to inform Tribes of their options under the BIL.

Conclusion

Thank you again for the opportunity to appear before you today. I would be happy to answer any questions you may have.

The CHAIRMAN. Thank you very much, Mr. Hess.
Mr. Geisler, please proceed with your testimony.

STATEMENT OF ADAM GEISLER, DIVISION CHIEF, TRIBAL CONNECTIVITY AND NATION TO NATION COORDINATION, NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE

Mr. GEISLER. Good afternoon, Chairman Schatz, Vice Chair Murkowski and members of the Committee.

On behalf of Assistant Secretary Alan Davidson, I want to thank you for the opportunity to testify about the National Telecommunications and Information Administration's work on the Tribal Broadband Connectivity Program.

My name is Adam Geisler. I am an enrolled member of the La Jolla Band of Luiseno Indians. I am speaking to you today from the ancestral homelands of the Payomkawichum people where I reside and work. I currently serve as the Division Chief of the Tribal Connectivity and Nation to Nation Coordination Division within the Office of Internet Connectivity and Growth at NTIA where I assumed the newly formed career leadership position in the Fall of 2021.

Living and working from my own indigenous community, I experience the same challenges that many individuals within different indigenous communities face when it comes to affordable, reliable, high speed internet access. My own community has struggled over the past two years in addressing remote education, telehealth and even remote governance. As each member of this Committee recognizes, broadband is no longer a luxury but a necessity.

As a previous, three-term elected tribal leader, I have long worked toward addressing the disparities within my own community, including but not limited to broadband and emergency communications. I therefore was thrilled when Congress passed the Consolidated Appropriations Act of 2021, creating the Tribal Broadband Connectivity Program, knowing it would begin to address the broadband and digital needs of American Indians, Alaska Native and Native Hawaiian communities in a way that fits their unique needs and circumstances.

The Tribal Broadband Connectivity Program allows us to work directly with eligible applicants on solutions they propose and is the first of its kind for the targeted deployment of broadband in tribal communities. NTIA hosted multiple tribal consultations and listening sessions to better understand the unique needs of applicants which informed the Notice of Funding Opportunity prior to its release on June 3rd of 2021.

Once the Notice of Funding Opportunity was released, NTIA held ten national webinars, participated in 55 national and regional engagements and technical assistance workshops, and our staff twice directly contacted over 350 tribal governments known to be without qualifying broadband service twice to ensure awareness of the Tribal Broadband Connectivity Program. The outreach and technical assistance were conducted virtually in the middle of an unprecedented global pandemic by an entirely Native team here at NTIA. We are all well equipped to recognize and help address the digital equity challenges faced by applicants.

Our team recognizes this program was intended to help those in greatest need obtain access to qualifying broadband service. The hearing process to make sure applicants are complete is not always fast, but is invaluable to the tribal communities. We are building the capacity of Indian Country one applicant at a time.

Over 450 tribal governments were represented in grant applications which constitutes roughly 75 percent of the 574 federally recognized tribes, demonstrating a need to connect at least 180,000 indigenous, unserved households. The original Tribal Broadband Connectivity Program was nearly six times over-subscribed with a total of \$5.84 billion in requested funding for projects and only \$980 million available to address the challenge.

To date, NTIA has awarded \$6.5 million in grants to 15 eligible Tribal Broadband Connectivity Program applicants. Today, NTIA announced an additional 19 awards totaling over \$76 million in funding going toward broadband adoption use activities. We are working toward to getting the remaining funds out as quickly as possible.

NTIA is also working to deploy the additional \$2 billion in tribal funding as part of the Infrastructure Investment and Jobs Act. We have already conducted two tribal consultations regarding how this funding should be deployed. Consistent with the statute, NTIA is also evaluating the possibility of allocating some of the new \$2 billion in tribal funding toward qualifying projects under the Tribal Broadband Connectivity Program, Round 1 Notice of Funding Opportunity.

In conclusion, Chairman Schatz, Vice Chair Murkowski and members of the Committee, thank you for the opportunity to provide an update on the Tribal Broadband and Connectivity Program. I look forward to answering any questions you may have.

[The prepared statement of Mr. Geisler follows:]

PREPARED STATEMENT OF ADAM GEISLER, DIVISION CHIEF, TRIBAL CONNECTIVITY AND NATION TO NATION COORDINATION, NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE

Miiyuyum (Hello), and good afternoon Chairman Schatz, Vice Chair Murkowski, and Members of the Committee. On behalf of Assistant Secretary Alan Davidson, I want to thank you for the opportunity to testify about the National Telecommunications and Information Administration's (NTIA) work on the Tribal Broadband Connectivity Program. My name is Adam Geisler. I am an enrolled member of the La Jolla Band of Luiseno Indians and speaking to you today from the ancestral homelands of the Paycmkawichum people where I reside and work. I currently serve in a career position as the Division Chief of the Tribal Connectivity and Nation to Nation Coordination Division within the Office of Internet Connectivity and Growth at NTIA where I assumed the newly formed leadership position in the fall of 2021.

Living and working from my own indigenous community, I experience the same challenges that many individuals within different indigenous communities face when it comes to affordable, reliable, high-speed Internet access. My own community has struggled over the past two years in addressing remote education, telehealth, and even remote governance. Broadband is no longer a luxury but a necessity, which I know every member of this committee recognizes.

I served three terms and dedicated nearly a decade of my life as an elected tribal leader of the La Jolla Band of Luiseno Indians. I have long worked toward addressing disparities within my own community, including but—not limited to—broadband and emergency communications. I, therefore, was thrilled when Congress passed the Consolidated Appropriations Act of 2021 creating the Tribal Broadband Connectivity Program, knowing that it would begin to address the broadband and digital divide needs of American Indian, Alaska Native, and Native Hawaiian communities in a way that fits their individual needs and circumstances.

This program has created a new opportunity for partnership between our communities and broadband providers. The approach that the Tribal Broadband Connectivity Program allows us to take is that of working directly with tribal governments, Alaska Native Corporations, Tribal Colleges and Universities, tribal organizations, and the Department of Hawaiian Homelands on solutions that they have put forward and is a first of its kind for the targeted deployment of broadband in tribal communities.

NTIA hosted multiple Tribal Consultations and listening sessions to inform the development of the Tribal Broadband Connectivity Program Notice of Funding Opportunity prior to its release on June 3, 2021. This critical step helped NTIA better understand the unique needs of tribes, and that understanding informed the development of the Notice of Funding Opportunity.

After the release of the Notice of Funding Opportunity, NTIA held 10 national webinars, participated in 55 national and regional engagements and technical assistance workshops, and our staff directly contacted over 350 tribal governments known to be without qualifying broadband service, twice, to ensure awareness of the Tribal Broadband Connectivity Program. The outreach and technical assistance were conducted virtually in the middle of an unprecedented global pandemic. Undertaking such a substantial outreach campaign to Tribal communities was key to ensuring that all eligible Tribal entities were aware of the funding opportunity and how to prepare for it. It also is significant that the outreach was conducted by an entirely Native team working for NTIA on the Tribal Broadband Connectivity Program. Each member of my team understands and has lived the realities of the digital divide in their home communities. They are all well equipped to recognize and help address the digital equity challenges faced by applicants to the Tribal Broadband Connectivity Program.

NTIA staff have worked hard to launch this program, process applications, and award grants. This process has included multiple back-and-forths between NTIA staff and Tribal applicants to address questions. I remind myself and my team that this program was intended to help those in greatest need obtain access to qualifying broadband service. Our job is not just funding broadband projects. We are building the capacity of Indian Country, one applicant at a time. The broadband deployment projects funded by the Tribal Broadband Connectivity Program will build the infrastructure necessary for tens of thousands of Tribal members to reliably access the Internet. The use and adoption projects the program funds will provide Tribal members the devices, skills and broadband services they need to engage in remote learning, remote work, precision agriculture, telemedicine, and in every other way become full digital citizens. The work we are doing to make sure the applications are complete is not always fast but is invaluable to the stakeholders and to the interest of all Americans who have invested in their success.

Over 450 tribal governments applied for grants, which constitutes roughly 75 percent of the 574 federally recognized tribes, with Tribal Broadband Connectivity Program applicants demonstrating a need to connect at least 180,000 indigenous unserved households. The original Tribal Broadband Connectivity Program was nearly six times oversubscribed with a total of \$5.84 billion in requested funding for projects and only \$980 million available to address the challenge.

To date, NTIA has awarded \$6.5 million in grants to 15 eligible Tribal Broadband Connectivity Program applicants. Today, NTIA announced an additional 19 awards—totaling nearly \$77 million—in funding going toward broadband adoption and use activities for Tribes in 10 states. We are working to award the remaining funds as quickly as possible.

NTIA also is working to deploy the additional \$2 billion in Tribal funding as part of the Infrastructure Investment and Jobs Act. We have conducted two Tribal consultations regarding how this funding should be deployed and plan to conduct addi-

tional Tribal Consultations prior to releasing a Notice of Funding Opportunity. Consistent with the statute, NTIA is also evaluating the possibility of allocating some of the new \$2 billion in tribal funding toward qualifying projects under the Tribal Broadband Connectivity Program round 1 Notice of Funding Opportunity.

This program is life changing for so many Tribal communities.

In conclusion, Chairman Schatz, Vice Chair Murkowski, and Members of the Committee, thank you for the opportunity to provide an update on the Tribal Broadband Connectivity Program. I look forward to answering any questions you may have regarding the Tribal Broadband Connectivity Program.

The CHAIRMAN. Thank you very much.
Senator Cortez Masto.

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

Senator CORTEZ MASTO. Thank you.

Mr. Hess, let me start with you. Thank you to all the panelists.

Mr. Hess, in your testimony, you note that the Department of Transportation is working to distribute \$17.8 million to reestablish and operate seven tribal technical assistance program centers. I am so glad to hear that.

What are the current programs the TTAP centers offer for assistance, focused on technical assistance, and will there be a focus on building this capacity for tribes as communities establish the seven new centers?

Mr. HESS. Senator, the Tribal Transportation Assistance Centers already received applications and closed early this week. We will be awarding those later this year. To answer your question specifically, these centers focus specifically on workforce development and capacity development within tribal communities.

It has been a very popular program. We have recently revamped it which is why we have gone out with a new NOFO. These centers will focus on, it is administered out of our office and will focus on workforce development and technology transfer within the Federal Highway Administration. The focus will be, again, on capacity development, technology transfer and assistance to the tribes in developing capacity so they can deliver their tribal projects.

Senator CORTEZ MASTO. Mr. Hess, is there going to be any assistance to the tribes to help them build capacity in grant writing or for grant writing purposes at all?

Mr. HESS. Yes, Senator. That will be a key aspect. Under the authorities made available to us under previous authorizations and existing authorization, the Federal Highway Administration can work with tribes and build capacity within the tribes to assist them in preparing grant applications. This is not the case with all of our stakeholders that we work with.

So, yes, to answer that question, we are working with tribes. We will continue to work with tribes. Under the Bipartisan Infrastructure Law, there are unprecedented opportunities for tribes. We are fully aware of that.

The challenge the tribes have expressed to us at the Federal Highway Administration is the difficulty of small tribes applying for grant programs. Our goal at Federal Highway is to make it as easy as possible to apply for a grant program and then once the money is made available, to get it out as fast as possible.

Senator CORTEZ MASTO. That is great to hear. It is the same thing I hear from the tribes in Nevada as well. That is good news.

Mr. Geisler, I appreciate all that the Commerce Department is doing to get these vital broadband dollars out the door quickly to help our communities. The need for expanding outreach and better transparency and oversight of Federal broadband programs was behind the Bipartisan Act, the Broadband Act I led in late 2020. The legislation actually established the NTIA's Office of Internet Connectivity and Growth. Now I am working to make sure that the Senate Appropriations Committee appropriates the resources needed for these programs.

Can I ask you, I have a consortium of more than ten Nevada tribes seeking funding from the Fiscal Year 2021 appropriations Tribal Fund Program funding. Can I get an update on when you will be complete in awarding this round of funding for my constituents or any constituents?

Mr. GEISLER. Yes, Senator. Thank you for the question. We are targeting to have most of the consolidated appropriations funding out the door by the end of spring of 2022.

Senator CORTEZ MASTO. Wonderful. That is great to hear. Thank you very much.

Finally, as I know my time is running out. Mr. Garriott, the Water Smart Program under the Bureau of Reclamation supports water conservation, something we understand so much in the west, particularly in Nevada. It also supports water use efficiency, the drought planning, water reuse to recycling. Leaders in the tribal community have pointed to the 50 percent non-Federal cost share for the Water Smart Program as cost prohibitive for many tribes. My question to you is this. Would the Department agree with this assessment from the tribes and would it support the ability to waive this requirement?

Mr. GARRIOTT. Thank you for the question. We have heard that as well from many tribes across the Country that cost share match requirements are something that oftentimes pose a challenge. One of the things we are doing is really taking a look at all of our programs to see what authorities we have, statutory, regulatory, or really policy authorities to provide as much flexibility to tribes as possible.

With regard to that specific program, I would not be able to provide any details at this time but would be happy to follow up with more specific program details.

Senator CORTEZ MASTO. Thank you. I look forward to that.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Cortez Masto.

Mr. Garriott, is \$216 million enough to cover the cost of climate resilience in Indian Country?

Mr. GARRIOTT. We think the Bipartisan Law is a good start. When we looked at the cost of community relocation, the BIA conducted a study that was published and on our website 2020 looking at the cost in Alaska and the lower 48. Just to move communities, the cost was \$4.8 billion. So there is some work to do.

The CHAIRMAN. Has there been a comprehensive assessment of the cost of climate resilience? This isn't a criticism; it isn't as though the rest of the government has done this.

Also, I think it is important to understand there are probably three or four lines of effort, right? There is community relocation, which is the most extraordinary and expensive step, but there is also hardening of infrastructure, being prepared for increasing severity and frequency of natural disasters, there is dealing with drought and water shortages and wildfires, floods and the rest of it.

Has there been this kind of comprehensive analysis so we can get a number?

Mr. GARRIOTT. We do not have a comprehensive analysis on the hardening of infrastructure and the total need to really build and ensure full climate resilience within Indian Country. What we do know is that every year we do provide funding for climate resilience planning and for projects. We currently have a NOFO out for about \$48 million worth of projects. Every year, the number of projects and the funding amount far exceeds the amount that we have available to spend.

The CHAIRMAN. Again, this is not a criticism but I do believe there are resources at NOAA, National Weather Service, and FEMA have that could be of use to you so you do not have to invent and instrument. I also do not want to think of climate resilience as always managed retreat, because that may not be affordable, especially if climate impacts are essentially across all 50 States and all of the territories. Where are we retreating to?

Talking to FEMA about what it would look like to be a little more disaster prepared, a little more disaster resilient, I think, would be a good first step and not chew up department resources while you try to develop expertise that may exist somewhere else in the Federal Government. That is just a gentle ask. I may follow up with a letter but if you can do it without the letter, that is even better.

Mr. GARRIOTT. We appreciate that. Our interagency coordinator position as well as our current work with the White House Council, I think, is a good start to continuing those interagency conversations.

The CHAIRMAN. Does the department have any funding resources to support Native Hawaiian climate resilience programs?

Mr. GARRIOTT. No specific set-aside programs, although there is funding being tracked through our Office of Native Hawaiian Affairs within the department. But no specific funding set-aside.

The CHAIRMAN. I want to make sure I understand the answer. I understand no specific funding set-aside. That is different from saying Native Hawaiian programs are ineligible, is it not?

Mr. GARRIOTT. There are some programs for which Native Hawaiians can apply on a competitive basis.

The CHAIRMAN. Can you provide a list, in your view and the views of department lawyers, of which programs Native Hawaiians are eligible for and which would require sort of a statutory change or a policy change?

Mr. GARRIOTT. We would be happy to provide that list.

The CHAIRMAN. Thank you.

Mr. Geisler, Thank you for your testimony. I understand the Department of Hawaiian Homelands submitted an application for its 3 percent set-aside in the Fiscal Year 2021 Consolidated Appropria-

tions Act on August 31st last year, but the funds still have not been issued. What is happening with the hold-up?

Mr. GEISLER. Senator, thank you for the question.

All applicants must supply a complete application consistent with the NOFO as we work through the process with each of the applications. I continue to look forward to working with the great State of Hawaii and the team you have as we work towards getting Hawaii's funding.

The CHAIRMAN. I am sorry; I don't know what that means. What's the hold-up? Are you telling me that their application was incomplete or incorrect and you have to work with them to get it right? I just don't get what you are saying.

Mr. GEISLER. Senator, what I am saying is that the applications that have been provided by all applicants have a set of required documents and forms that need to be complete in compliance with both the NOFO and also with our grants guidance. As we work towards the completion of that documentation, we can move applications forward in the next step.

The CHAIRMAN. I honestly don't know what that means. I will follow up directly with you. If necessary, maybe we can do a little convening with the Department of Hawaiian Homelands and see whether there is something that needs to happen to make the application compliant with your requirements or more complete.

The law is the law. It is a 3 percent set-aside. It is not unclear and I don't think the Department has a ton of discretion. Obviously, the Department has to apply and apply appropriately. But as long as they have done it, they get the money because we enacted the law.

I will now turn it over to our Vice Chair. Thank you.

Senator MURKOWSKI. [Presiding] Thank you, Mr. Chairman. Thank you to our witnesses here today.

Let me begin with you, Mr. Geisler. I am sorry I missed your testimony as I was on my way to vote. That is the way it is today. It is Wednesday.

I want to talk about technical assistance and coordination because, as I mentioned in my opening, we all know this is an area that going to be very, very key for everything, most notably, in the broadband space. There was an additional \$2 billion to the Tribal Broadband Program in the Bipartisan Bill, but that grant funding is still oversubscribed. Is there any update that you might be able to provide to the Committee on how much of a shortfall for qualified, non-redundant applicants or applications you think you have?

Mr. GEISLER. Senator, thank you for the question. Also, thank you for hosting the symposium that you did. It was great to be able to meet so many of the stakeholders in the State of Alaska and meet face-to-face.

With regard to the delta between the number of applications we have received and the dollar amount, between the Consolidated Appropriations Act and the IIJA, we have a combined total of \$3 billion available, yet we have been oversubscribed with a total ask of \$5.84 billion in requested funding at this time.

Senator MURKOWSKI. So there is a pretty big delta there in terms of how we are going to meet that goal.

Another question that I heard, and perhaps you did as well, and thank you for your participation in the symposium. The concern that we heard was you have record inflation going on, you have proposals that were submitted last summer, and they will be awarded later this summer. You have a building season in Alaska that is not year-round and can push things into 2023.

So there were concerns expressed from those who were worried that we could look at cost overruns commensurate with inflation and hoping they are not going to have their applications penalized on account of this. Can you speak to that at all?

Mr. GEISLER. Yes, Senator, I can. I appreciate your asking that question. I think it highlights why it is so important that we go through the level of curing that we do just prior to moving an application forward for final funding consideration where that provides us an opportunity to work through some of those inflationary or cost considerations that may have changed when the applicant originally made their submissions.

I would also highlight that the program does allow for contingency when we are looking at infrastructure deployment in particular. It is a very roll-up-your-sleeves activity when we engage with each of these applicants to ensure that the successful deployment of these projects will occur.

Senator MURKOWSKI. Then one last question, an important one for me. It is the sustainability for some of these tribal applications. We have some tribes, I think you recognize, that have very few subscribers, so you are going to be in a situation where tribes are going to be operating with limited allowable administrative costs during the construction phase on projects that don't have enough subscribers to return the initial investment and carry those operating costs. What is the plan for sustainability for these applications?

Mr. GEISLER. Senator, great question. I think it is on a case-by-case basis as we look at the solutions that each of the applicants has proposed in terms of sustainability. That is a primary topic of conversation we engage in with the applicant as we conduct our curing and a component that we evaluate the application for when we review them for funding consideration.

Our team stands ready to continue providing technical assistance in helping to work through those barriers collectively and into the future with the applicants.

Senator MURKOWSKI. Great.

Ms. Fowler, let me ask you about, again, a pretty historic opportunity to address much needed sanitation infrastructure. We have dozens of communities that are still unserved, not underserved. This is a two-part question. Do you agree that IHS has the authority to fund the operation and maintenance costs for sanitation systems?

Ms. FOWLER. Yes, Senator, I do agree that we do have that authority.

Senator MURKOWSKI. Good. Now that the infrastructure law has provided full funding for all of the sanitation projects within the IHS sanitation deficiency system database, would IHS be supportive of using part of its annual sanitation facilities construction

appropriation to then fund operation and maintenance costs in communities that have very significant need?

Ms. FOWLER. Thank you, Senator, for raising that consideration. It is something that IHS will consider. But we have not received funding specifically for operations and maintenance until now. We will have to consider—

Senator MURKOWSKI. But you are not ruling it out?

Ms. FOWLER. I am sorry?

Senator MURKOWSKI. You are not ruling it out?

Ms. FOWLER. We are not ruling it out, no.

Senator MURKOWSKI. Then one last question for you, and I will turn to my colleague, Senator Rounds.

You have stated in your testimony that the 3 percent limitation on program support may mean that the average project duration could be greater than the current average project duration of 3.6 years.

Can you share how the 3 percent limitation will impact the spend-out of the SFC program?

Ms. FOWLER. Sure, thank you for the question.

As you noted, the IIJA provided for 3 percent of the funds to be used for administrative purposes. They are limited to the Federal program only. That means only IHS can use them for administrative purposes, and tribes who manage their own projects would not be able to access those administrative resources.

We do believe that without additional program support, that this will extend the project duration beyond the current, I believe it is 3.6 years duration. We do believe that will extend that by several years.

Senator MURKOWSKI. If there is not a legislative fix on program support, are there options that you are considering to ensure these projects can be completed in a timely manner?

Ms. FOWLER. We are exploring options including options for tribes to access funding for administrative purposes. One action that we have already taken is to include a request for \$49 million in the Fiscal Year 2023 President's budget request in the Facilities and Environmental Health Support Account which funds the people who are needed to work on the projects to help us expand our capacity and to address that issue of program support.

Senator MURKOWSKI. Let me turn to Senator Rounds for any questions he might have.

**STATEMENT OF HON. MIKE ROUNDS,
U.S. SENATOR FROM SOUTH DAKOTA**

Senator ROUNDS. Thank you, Madam Chair.

First of all, thank you all for being here today. Mr. Garriott, thank you for being here today. I am happy to see you back here again. I had the opportunity to introduce you a few months ago when you were first getting settled here in D.C.

My staff tells me that you have been tasked with looking at some of the longstanding issues facing large, land-based tribes. I was very happy to hear that because I do know that you come from a very large, land-based tribe and you understand some of the challenges that they face.

My question for you today is, if you could, coming from the Rosebud and recognizing the challenges a land-based tribe does have, could you share with the Committee an example of some of the projects that you are working on or success stories you have from time to time so far, that would be considered to be of a helpful nature to some of our larger land-based tribes back in South Dakota?

Mr. GARRIOTT. Absolutely. Thank you, Senator. It is always great to see you and see people from back home as we out are here in D.C.

I think there are a number of examples. One example I think is pertinent to today's hearing is in the BIL, the Department of the Interior received a significant portion of funding for water and sanitation and safety of dams. We are getting ready to begin announcing later this month and throughout the coming months various projects funded for the bill with regard to dams and other projects. Of course we have a number of dam projects throughout Indian Country including ones in South Dakota and with many other large land-based tribes.

Additionally, another example I would point to is the historic water rights settlements that have been announced, particularly up in Montana with Salish Kootenai and others to resolve some of these longstanding issues. Then of course, we have the Department of Transportation here and I think they would be able to address some of the longstanding road issues. However, I would point to those two examples.

Senator ROUNDS. Thank you.

I would ask Ms. Fowler, the lack of adequate domestic and municipal water is probably one of the greatest water resource problems facing tribal nations. One many tribal lands, residents must drive 40 miles or more every day or every few days to haul water home for drinking, cooking, and bathing. Many households on tribal lands are not good candidates for centralized water systems because extending lines to low density, geographically isolated areas is extremely expensive.

Chairman Frazier, who is going to be on the second panel here today, is from the Cheyenne River Tribe. He knows full well just exactly the challenges in trying to bring rural water into the communities because he worked on a major one there in the Cheyenne River region. They take a long time to get in and take a long time to get set up. These particular areas where you have this low density make it extremely challenging to bring in good, clean water sources. Some of these households out there right now are forced to rely on unregulated wells, springs or livestock troughs to meet their daily needs, which can be unsafe because groundwater is often contaminated.

IHS is one of the primary providers of community water projects in American Indian and Alaska Native communities. IHS has identified \$3 billion in estimated costs for 1,580 water infrastructure projects, including 112 in South Dakota which is needed basically to address existing drinking water and wastewater needs in its 2019 annual report to Congress on sanitization deficiency levels for Indian homes and communities.

Specifically, IHS determined that over 110,500 Native households need some form of sanitation facility improvement. Over

51,700 are without access to adequate sanitation facilities and over 6,600 are without access to a safe water supply system or a sewage disposal system.

My question: the IHS Sanitation Facilities Construction Program will bring clean drinking water to tribes and tribal members in South Dakota and across the Country. This program is very important to the people in my home State of South Dakota. There are, as I said, 112 water infrastructure projects identified by IHS in our home State alone.

Could you provide an update for the Committee on how implementation of this program is proceeding?

Ms. FOWLER. Thank you for that question.

We are very excited and very appreciative of these resources that IHS has received through the Infrastructure Investment and Jobs Act as well as our annual appropriation for the Sanitation Facilities Construction Program. The biggest, most significant piece about this funding is that the \$3.5 billion will fund all of the projects that are currently on our sanitation deficiencies systems list. That is really exciting.

As you noted, we have thousands of homes that are without any form of clean water or safe wastewater disposal facilities. We have more than 100,000 that require improvements. So as we work to allocate these funds, we do anticipate and are very excited about homes that have been without these facilities having clean drinking water and having those safe sewer systems for their homes.

Senator ROUNDS. I apologize. I gave a rather long question so my time has expired.

Could I ask, would be able to provide the Committee a list of where you are on some of these projects that are of the highest priority or the prioritization you have done, just so we can see the progress either being made or we expect to be made in this next fiscal year?

Ms. FOWLER. I would be happy to.

Senator ROUNDS. Thank you. Thank you, Madam Chair.

Senator MURKOWSKI. Thank you, Senator Rounds.

Senator Luján?

**STATEMENT OF HON. BEN RAY LUJÁN,
U.S. SENATOR FROM NEW MEXICO**

Senator LUJÁN. Thank you, Chair Murkowski.

I just want to join in on Senator Rounds, there, I also have a big interest in that particular area and having an update and inventory and letting us know where those projects are as those improvements are being made. I want to thank you for that as well. Thank you, Mr. Rounds, for that advocacy. To my colleagues, I want to thank them for pulling this together today for this important conversation.

One of the areas I wanted to focus some time on is, there was an effort to elevate the tribal government affairs leadership to the rank of Assistant Secretary within the U.S. Department of Transportation. Then they did the right thing and created the Office of Tribal Government Affairs.

One of the areas I continue to hear concern, though, is from tribes and Pueblos in my State that they have not yet connected

with the Department of Transportation or had any outreach with the Department of Transportation. As we all know, the reason for this elevation is, when you don't know when you are going to apply, what those details are, there is no technical support, you get left out, not because there is a good case to be made but because there is some assistance that is needed.

Mr. Hess, yes or no, has the Assistant Secretary or staff from the Office of Tribal Governmental Affairs conducted proactive outreach to tribes yet?

Mr. HESS. Senator, within the Federal Highway Administration, one of the hallmarks of our program is that technical assistance be provided to tribes. Out of 574 recognized tribes, 130 of those have agreements with the Federal Highway Administration.

We work closely with the Bureau of Indian Affairs to provide technical assistance to tribes, specifically to develop their transportation improvement plans, to build capacity and to help them build capacity and expertise in not only being aware of all the available funding opportunities, but to apply for those funding opportunities.

As I mentioned in my statement earlier, our goal at the Federal Highway Administration and the Department of Transportation is to make it as easy as possible for tribes to apply for funds and once they get the funds, to get them out there as fast as possible.

So, yes, I have met with the Pueblo myself and will continue the technical assistance and tribal engagement that we saw under the FAST Act and will continue under the Bipartisan Infrastructure Law.

Senator LUJÁN. Mr. Hess, you said you met with one of the Pueblos. Who in New Mexico have you met with and which of the tribes and the Pueblos?

Mr. HESS. Senator, I can get back to you with the list. I have been with Federal Highway about seven years now. Earlier on, because we have so many tribes in that region of the Country, I was down there early. I will provide you a list of the tribes I met with in New Mexico. I will have to get back to you with the list. I want to be accurate in my answer.

Senator LUJÁN. When you say you met with them early, was that early in your seven-year term or early since the passage of the Bipartisan Infrastructure Law?

Mr. HESS. Early in my seven-year term, Senator.

Senator LUJÁN. Okay, so, we are here to talk about the Bipartisan Infrastructure Bill, new money, new application. While I appreciate meeting seven years ago, that does not help anybody right now.

They may have a relationship but the reason this was so important to all of us, and everyone here has an interest in this, including the constituents we represent, is they need support and help. That was the idea and that is my expectation from this office. If it is different, I would like to have that follow-up conversation.

What I don't want to see that Pueblos and tribes do not get any money in New Mexico or qualify for any grants because they didn't have that support or that technical expertise, or they didn't have the heads up on where to get in front of this stuff. That would surely, I think to all of us, be a major disappointment if that exists in any one of our States. So I look forward to following up with you

as well. I don't know if you have any follow-up. I look forward to following up with you at a later point.

Ms. Fowler, you stated in your testimony that the increase of the funds for IHS backlog will significantly increase IHS's workload. Do you or does IHS currently have the capacity to get this work done? Or is the staffing a barrier right now to timely complete the sanitation deficiency system projects?

Ms. FOWLER. IHS will need to build its capacity to undertake these projects that will be funded with the Infrastructure Investment and Jobs Act funding. If we are not able to procure additional resources for program support, then we do anticipate that the project duration timeline will increase from the current 3.6 average by several years.

Senator LUJÁN. Ms. Fowler, I think it is important for the Committee to know what the staffing need would be in order to complete these. These are important projects, life and safety across indigenous sovereign nations across the United States. I look forward to working with you and seeing how we can grow that advocacy.

Madam Chair, I do have one other question on broadband. It is for Mr. Geisler. I will submit that for the record and make sure to get a response at a later time so I am respectful of everyone's time today.

Thank you.

The CHAIRMAN. [Presiding.] Senator Murkowski.

Senator MURKOWSKI. Thank you, Mr. Chairman.

I just wanted to add to what Senator Luján raised with Mr. Hess about the Office of Tribal Affairs. It is something that I think when we included that requirement to establish this office, there is an expectation that we do have that level of engagement and outreach. We have also recommended that other departments do the same, including the Department of Treasury that is increasingly becoming involved in tribal affairs. So just for the record, I am putting that out there.

Mr. Garriott, you mentioned in your testimony this tribal playbook document that is going to clarify and make magic all these infrastructure opportunities for tribes. Hopefully, we are going to be able to see that going live. Again, I just wanted to put that out there. I know there is a great deal of anticipation for that and for these types of resources.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Murkowski.

We will now thank and excuse our first panel of witnesses. We appreciate your testimony today.

We will turn to our second panel of witnesses. Our first guest to introduce is from New Mexico. Senator Luján will introduce him.

Senator LUJÁN. Thank you so very much, Mr. Chairman.

Chairman Mark Mitchell of the All Pueblo Council of Governors, who is part of the second panel today, is also the former Governor of Tesuque Pueblo, and a well respected friend in the community. It is an honor to be with you today, Governor Mitchell.

For over 400 years, the All Pueblo Council of Governors has gathered leaders from 20 Pueblos across New Mexico and Texas. Its first recorded convening dates back to 1598. It has led the fight

in many major legislative, cultural, and government issues, including strengthening infrastructure for Pueblo communities.

Former Governor Mitchell began his tenure as Chairman of the All Pueblo Council of Governors back in January of 2022. After serving as Governor of Tesuque Pueblo six separate times since 1993, Chairman Mitchell has also served on his Pueblo's tribal council.

Outside of Chairman Mitchell's time and leadership, he has worked with the Santa Fe Indian Health Service for seven years in the Transportation Department, 10 years in law enforcement as well, and he trained many leaders and police officers at the New Mexico State Police Academy in Santa Fe back in 1994. He is also currently the Tribal Historic Preservation Officer for Tesuque Pueblo.

Mr. Chairman, it is my pleasure today to honor and introduce our friend, Governor Mitchell. I look forward to hearing about the role New Mexico's Pueblos and tribes have played in advancing infrastructure improvements for their communities, especially in the wake of New Mexico's wildfires and ways Congress and the Administration can support their efforts.

I do want to extend my prayers for the safety and well-being of your community, Mr. Mitchell, and every New Mexican back home.

Thank you, Chairman Schatz. I yield back.

The CHAIRMAN. Thank you very much, Senator Luján.

Senator Rounds, with his guest.

Senator ROUNDS. Thank you, Mr. Chairman.

Today, I have the honor of introducing my friend, Mr. Harold Frazier, the Chairman of the Cheyenne River Sioux Tribe from my home State of South Dakota.

Mr. Frazier was born and raised in White Horse, South Dakota, where he still resides today. For decades, Chairman Frazier has worked diligently to improve the quality of life for the Cheyenne River Sioux Tribe.

During his two chairmanships, Chairman Frazier has played an instrumental role in securing infrastructure funding for a newer, more accessible nursing home, hospital, and transit system. I might also add for rural water as well.

Chairman Frazier continues to be a strong advocate for Native Americans on the local, State and the Federal levels. Experiencing issues firsthand, Chairman Frazier's perspective and testimony will provide great insight to life in Native communities.

I want to take this opportunity to thank Chairman Frazier for coming here in person. Getting here is no small task from Cheyenne River in South Dakota. It is not just a long drive but it is multiple flights as well back and forth. I most certainly appreciate him for his patience and taking the time to come. He is truly one of our real leaders in South Dakota as he does everything he can to improve services for his people back home. I look forward to his remarks.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much.

It gives me great pleasure to extend a welcome and aloha to Mr. Garret Yoshimi, the Chief Information Officer and Vice President for Information Technology at the University of Hawaii based in

Honolulu. There is no one in the State of Hawaii who understands the deployment of high tech and broadband infrastructure better than Mr. Yoshimi. We are very pleased to hear from him today.

Senator Murkowski, for her panelist.

Senator MURKOWSKI. Thank you, Mr. Chairman.

I have somewhat introduced Ms. Nicole Borromeo who, as I mentioned, is affiliated with the Alaska Federation of Natives. She does an extraordinary job for them as its Executive Vice President as well as General Counsel. She has been working very, very hard to help Alaska Natives navigate through so much of this and working to help distribute funds and providing services.

I am just looking through a release that came out today with regard to the tribal broadband applications. I think it is noteworthy that the Alaska Federation of Natives is receiving \$35 million for their consortium application for 73 tribes. That is quite, quite significant, and something I know that you have worked on very much, Nicole, and that is a tribute to your good work.

In her spare time this past year, she has been working on the State's redistricting plan, no small initiative, and I know you are glad to have that one behind you.

Thank you for your very generous work on behalf of Alaska Natives and Alaskans everywhere. We appreciate you and we are pleased to have you before the Committee today.

The CHAIRMAN. Thank you very much.

I want to remind our witnesses that your full written testimony will be made part of the official hearing record. Please keep your statement to no more than five minutes so that the members have time for questions.

We will start with Chairman Mitchell.

**STATEMENT OF HON. MARK MITCHELL, CHAIRMAN, ALL
PUEBLO COUNCIL OF GOVERNORS**

Mr. MITCHELL. Good afternoon, Chairman Schatz, Vice Chair Murkowski and other esteemed members of this Committee.

My name is Mark Mitchell. I am the former Governor of the Tesuque Pueblo and currently the chairman of the All Pueblo Council of Governors. Thank you for inviting me to speak today on behalf of the pueblos and the greater Southwest.

We are delighted to see that this Congress' bipartisan commitment to Indian Country has manifested in sweeping investments in infrastructure that will begin to transform this Nation.

First, we would like to offer some global remarks about the Bipartisan Infrastructure Law. This law is more than 1,000 pages long. We need the Federal Government to improve the technical support to tribes and Pueblos as we set out to navigate the funding opportunities available through the Bipartisan Infrastructure Law.

Secondly, cost match requirements constitute additional obstacles to accessing these desperately needed funds.

Third, tribes must have broad discretion to decide the best use of funds in our communities and Indian Country. It is best shared through non-competitive grants.

Fourth, the Federal Government must maximize its flexibility to utilize existing funding mechanisms to expedite distributions and ensure that the distributions are made on the basis of need.

Finally, we call on the Federal Government to research ways to help us leverage programs and funding throughout this Bipartisan Infrastructure Law. Fundamental to this, we need the Federal Government to move in lockstep to contemporaneously roll out these programs and streamline application procedures so that we can effectively plan and allocate resources and pair program dollars to enhance our project goals.

We look forward to the opportunities afforded by the Bipartisan Infrastructure Law's investment in rural sanitation and water infrastructure. As you know, water projects are fundamentally important to the Southwest.

We need to address our aging water systems, including third-world water ponds that many of our pueblos and tribes continue to be subjected to. We need to establish strong regional water infrastructure now to help us safeguard our communities from certain water insecurities and the health impacts associated with an aging water system.

The pueblo irrigation systems are also among the oldest in this Nation. A 2017 report entitled Irrigation Infrastructure Report for the Rio Grande Pueblos was completed. We need this Committee to encourage the Department of the Interior to sign and release the report as well as appropriations and necessary funding to support the report findings and recommendations.

These investments in water systems will also help us sustain our life ways and mitigate the increasing wildfires. These wildfires are now common in our region and threaten our sacred landscape.

We applaud Congress' action to secure \$216 million for tribal climate resilience, adaptation, mitigation and community relocation efforts, but you must know that this is not nearly enough. The pueblos are situated in the hottest and driest region of the Country. Because of climate change, we are already facing hotter and more intense and more frequent fires in our region.

We cannot afford for our climate to get hotter or our traditional homelands will become incapable of human support. We implore you to take further actions to fight global warming and substantially invest in the communities that are guaranteed to face the deadly consequences of climate change. The bill's \$500 million for Community Wildfire Defense programs is a much-needed investment for our community and we eagerly await this rollout.

As you know, the pandemic has highlighted how fundamental access to reliable, high-speed internet is for all of us. The Bill's sustained investment in broadband, if harnessed correctly, has the power to finally permit Indian Country to catch up to the rest of the Nation and to close the digital divide.

We note that the Bill provisions alone will channel \$2 billion to tribal governments for broadband deployment. However, the first round of tribal connectivity broadband funded only about \$1 billion worth of projects despite more than \$5.8 billion worth of requests. Conservatively, Indian Country still needs an additional \$3 billion to investment in broadband, assessing for inflation.

Finally, we stress that tribal governments must retain certain authority over projects intended to serve Indian Country. We also urge the States to collaborate and consult with the pueblos and tribes for the State-led projects over tribal landholdings.

We look forward to the funding for repairing and maintaining our roads, bridges, bike and pedestrian infrastructure, and transportation funds dedicated to improve our children's commutes to and from school. We are also excited about the Bill's investments in the Electric Vehicle Charging Networks, particularly in rural communities. As one of the sunniest regions in this Country, we see tremendous potential to stimulate our economy through this program.

As a final note, we would like to encourage the Federal Government to move away from funding tribal governments out of appropriations from the General Fund. Frequently, tribal programs are authorized, but funding is never appropriated. Indian Country deserves more than such hollow promises.

In conclusion, again, I would like to thank you all for the opportunity to testify before you today. I look forward to working with you and to ensure that all of the needs of Indian Country are met.

Thank you very much.

[The prepared statement of Mr. Mitchell follows:]

PREPARED STATEMENT OF HON. MARK MITCHELL, CHAIRMAN, ALL PUEBLO COUNCIL OF GOVERNORS

Good Afternoon. My name is Mark Mitchell. I am the former Governor of the Tesuque Pueblo and the current Chairman of the All Pueblo Council of Governors. The All Pueblo Council of Governors represents the twenty Pueblo Nations of New Mexico and Texas. Thank you for inviting me to submit written testimony about this critically important piece of legislation. I am encouraged that this Committee continues its excellent work on behalf of Indian Country by proactively seeking Tribal feedback on the implementation of the Bipartisan Infrastructure Law to-date.

We are delighted to see that this Congress' bipartisan commitment to Indian Country has manifested in a sweeping investment in infrastructure that will begin to transform this nation. Strong infrastructure is the cornerstone of a healthy local economy and robust community engagement. Strong local infrastructure has the power to raise people out of poverty through access to affordable public transportation and reliable broadband Internet. By providing exemplary water and sanitation systems, sustainable and local food pathways, and state-of-the-art healthcare facilities, it has the power to lower the rates of health issues like obesity, diabetes, and illnesses stemming from exposure to toxic chemicals, heavy metals, and unsanitary living conditions. Strong local infrastructure has the power to instill pride of community in the minds of members who everyday battle racial inequality, and who face higher than average rates of suicide, substance abuse, and other negative health outcomes.

This infrastructure investment is also a necessary investment in the future of our homelands. Land is critical to us because it is our connection to the Creator. Land is where we harvest medicinal plants and other important resources. Land is where we gain identity. Our connection to place is at the core of who we are as Pueblo people.

First, we would like to offer some global remarks about the Bipartisan Infrastructure Law. This law is more than 1,000 pages long. We need the Federal Government to commit to providing technical support to Tribes and Pueblos as we set out to navigate the funding opportunities available through the Bipartisan Infrastructure Law, and the technical requirements necessary under the soon-to-be promulgated program regulations and reporting obligations. We need the Federal government to invest in providing this technical support to us. To this end, we want to thank this Congress for allowing States the latitude to use up to two percent of Clean Water State Revolving Funds to award to nonprofit organizations that provide technical assistance to small, rural, and tribal publicly owned treatment facilities.¹ Given the breadth of Federal agencies responsible for carrying out programs under the Bipar-

¹*Build.gov*, Building a Better America: Bipartisan Infrastructure Law Rural Playbook, 10 (April 2022).

tisan Infrastructure Law, we expect a great variety in compliance requirements and will need all of the technical assistance we can get.

These compliance requirements are legal and technical burdens on our Tribal Governments. Many of us do not have dedicated grants administration professionals on staff, and often we do not have the budget to employ grant writers, contract professionals, or attorneys for review of program requirements. It is paramount, therefore, that the Federal government ensures that there are knowledgeable and dedicated agency staff available to provide program application, development, accounting, reporting, and other technical assistance to Tribes throughout every phase of program administration.

Second, as we have testified before, cost match requirements constitute an additional obstacle to accessing desperately-needed funds. The Pueblos are already underfunded and our budgets are tight. Most of our funds have already been earmarked for other necessary services and approved by our governing bodies for those purposes. Simply put, we do not typically have the agility to free up governance funds to meet cost match demands of Federal programs. Where not required by the Bipartisan Infrastructure Law, we urge you to ensure that the implementing Federal agencies do not add any such burdens to programs. Additionally, we hope that in drafting future legislation you keep in mind the burden placed on Indian Country and choose to forgo cost match requirements entirely.

Third, as many of our fellow tribal leaders have made clear, Indian Country is best served when Tribes have broad discretion to decide the best use of funds for our communities. This is a fundamental issue of respect: respect for tribal self-governance and self-determination under the law, respect for cultural traditions and indigenous governance structures, respect for traditional indigenous knowledge and practices, respect for our communities, and respect for our tribal elders. Moreover, the Federal Government's adoption of a policy for non-competitive grants would ensure that Tribes are not put in the inappropriate position of competing with each other to secure funding for critical services. Competitive grants unnecessarily foster strife and resentment between the winners and losers of each funding cycle.

Fourth, as we learned through the CARES Act implementation, funding of Indian Country must maximize flexibility within authorities and utilize existing funding mechanisms to expedite distributions. Existing funding mechanisms are essential to quick distribution of funds because the mechanisms ensure that Federal agencies do not spend months (sometimes years) crafting a distribution plan from scratch. In every case, it is important that Federal agencies apply membership and enrollment figures reported by Tribes themselves. Similarly, the Federal Government must incorporate feedback we have given over the years to move to a policy of maximizing flexibility within legal authorities to ensure that our funds do not get unduly delayed by simple bureaucratic procedural hurdles.

Finally, we stress today that the Bipartisan Infrastructure Law presents a once-in-a-lifetime opportunity for our communities. We call on the Federal Government to search for ways to increase our ability to leverage programs and funds throughout the Bipartisan Infrastructure Law. Fundamentally, we need the Federal Government to move in lockstep to contemporaneously roll out these programs and streamline application procedures so that we can effectively plan and allocate resources. We need the ability to pair program dollars across agencies and programs to enhance our project goals and maximize our return on investment. To accomplish these efficiencies, we recommend that the Federal Government create a master calendar to manage program application and reporting requirements across agencies. Such a calendar would ensure that the Federal Government implements programs at the same time, and would help Tribes keep track of the dozens of deadlines, reporting requirements, and reporting agencies.

As ever, we need all of this done, quickly.

Sanitation and Water Infrastructure

We look forward to the opportunities afforded by the Bipartisan Infrastructure Law's investment in rural sanitation and water infrastructure. As you know, water projects are fundamentally important to the Southwest. We are heartened by Secretary Haaland's creation of the Drought Relief Working Group to tackle the issue of water insecurity in the West and Southwest.²

Pueblo irrigation systems are among the oldest in this nation. Addressing aging water systems, specifically the third-world sewage ponds that many of our Pueblos and Tribes continue to be subjected to, is an urgent need for our communities. Con-

²Department of the Interior, White House Launches Drought Relief Working Group to Address Urgent Western Water Crisis (May 9, 2021) <https://www.doi.gov/pressreleases/white-house-launches-drought-relief-working-group-address-urgency-western-water-crisis>

gress' decision to provide Sanitation Facilities funding to the Indian Health Service to address backlogged sanitation needs across Indian Country is an excellent initial investment in this cause.

However, in 2017, a report entitled "Irrigation Infrastructure Report for the Rio Grande Pueblos" identified nearly \$280 million of irrigation improvements needed on Pueblo lands.³ This report still sits unsigned at the Bureau of Reclamation. We need this Committee to urge the Department of the Interior to sign and release the report. Moreover, we need appropriations for the \$280 million worth of need first identified in 2017, as well as funding to fulfil all subsequent fiscal needs that have arisen as a result of aging systems further breaking down, new environmental contamination issues, and inflation of labor and materials costs over the last four years.

We need your continued support for establishing strong regional water infrastructure now. Regional water infrastructure will help us safeguard our communities from certain water insecurities and health impacts associated with our aging water systems. These investments in water systems will also help us to sustain our life ways and mitigate the increase in wildfires. Unfortunately, Tribes and Pueblos tend to be the last communities to benefit from these regional projects. In the Bipartisan Infrastructure Law, Congress committed to spend \$160 million on the Eastern New Mexico Rural Water System.⁴ Unfortunately, not a single Pueblo is served by the Eastern New Mexico Rural Water System.

We also urge this Committee to undertake all actions necessary to ensure robust Federal water pollution control laws. The health of our Pueblos hangs in the balance when far-away courts interpret water laws to remove pollution restrictions on New Mexico waterways and divest Pueblos of authority to block these projects.⁵

Climate Change

We applaud Congress' action to secure \$216 million for tribal climate resilience, adaptation, mitigation, and community relocation efforts. But, you must know that this is not nearly enough.

The Pueblos are situated in the hottest, driest region in this country. We cannot afford for our climate to get hotter—our traditional homelands will become literally incapable of supporting human life. Moreover, the heat is expected to exacerbate drought conditions and threaten our already scarce water resources.

We implore you to take further action to fight global warming and substantially invest in the communities that are guaranteed to face the deadly consequences of climate change. Because of climate change, we are already facing hotter, more intense, and more frequent wildfires in our region. In 2016, the Union of Concerned Scientists reported that a global temperature increase of 1.8° F would result in a projected 400 percent increase in wildfire-burned acreage in New Mexico.⁶

We cannot understate the threat that wildfires pose to our community. Our communities are still cleaning up from the most recent round of fires. As you may be aware, the Los Conchas fire destroyed nearly 80 percent of the Santa Clara Pueblo's forested lands and has prevented safe access to the Santa Clara Canyon, where many sacred traditions are practiced. The Los Conchas fire also impacted many of the Pueblos on the Jemez mountains, including Cochiti Pueblo, Jemez Pueblo, and San Ildefonso Pueblo impacting their traditional cultural practices. As with water resource issues, combatting wildfires requires a regional approach. We need increased Federal willingness to enter into cooperative and interagency agreements for wildfire mitigation efforts—with Pueblos and Tribes as partners. Additionally, we know that decreased participation in the mountains and in the north is affecting atmospheric moisture and snowpack levels which, in turn, affect the amount of water in our rivers. While the Pueblos have banded together to address our local needs, we also need the cooperation of our State, Federal, and local partners upstream. Finally, we need local tribal members employed in Forest Service regional offices to hedge against the high rate of staff turnover at the Service and to ensure

³Bureau of Reclamation, New Mexico Pueblos Irrigation Infrastructure Improvement Project, <https://www.usbr.gov/uc/progact/NMPueblos/index.html>

⁴See Senator Martin Heinrich, *Heinrich, Luján, Leger Fernandez Announce \$160 Million in Infrastructure Funding for Eastern New Mexico Rural Water System Pipeline* (Mar. 31, 2022) <https://www.heinrich.senate.gov/press-releases/heinrich-lujan-leger-fernandez-announce-160-million-in-infrastructure-funding-for-eastern-new-mexico-rural-water-system-pipeline>

⁵See Susan Montoya Bryan, *New Mexico tribes sue US over federal clean water rule*, Associated Press (April 1, 2021) <https://apnews.com/article/wetlands-deserts-environment-new-mexico-native-americans-4d633a296e84ee66a0a97838c920ad41>.

⁶Union of Concerned Scientists, *Confronting Climate Change in New Mexico*, 6 (April 2016) <https://www.ucsusa.org/sites/default/files/attach/2016/04/Climate-Change-New-Mexico-fact-sheet.pdf>

continuity of operations and transmission of institutional knowledge when non-locally based staff leave.

The Bipartisan Infrastructure Law's \$500 million for Community Wildfire Defense programs is a much-needed investment for our community and we eagerly await its roll-out. We encourage this Committee to consider making a similar yearly investment in such programs. This will enable us to not only react to past events, but to build institutional capacity to deploy preventative programs to reduce the frequency and severity of wildfire events.

Broadband

As you know, the pandemic has highlighted how fundamental access to reliable, high-speed Internet is for all of us. We need Internet to work, to attend school, for virtual healthcare visits, and to stay engaged with our communities. The Bipartisan Infrastructure Law's substantial investment in broadband, if harnessed correctly, has the power to finally permit Indian Country to catch-up to the rest of the nation and to close the digital divide.

The National Telecommunications and Information Administration's Tribal Connectivity Broadband Program is an excellent start. The Bipartisan Infrastructure Law's provisions alone will channel \$2 billion to tribal governments for broadband deployment. However, the first round of the Tribal Connectivity Broadband Program funded only about \$1 billion worth of projects, despite more than \$5.8 billion worth of requests.⁷ Conservatively, Indian Country still needs an additional \$3 billion investment in broadband, assessing for inflation.

We were relieved to see that the United States Department of Agriculture's ReConnect Program will waive matching fund requirements for Tribes.⁸ Additionally, we applaud Congress for securing a \$75 per month credit for Internet services on Tribal lands under the Affordable Connectivity Program.⁹ This credit will be instrumental for communities with higher-than-average connectivity costs—typically rural communities with unestablished or under-established broadband infrastructure. Together these two commitments will go a long way toward meeting the Administration's goal of providing high speed Internet to every rural home and business.

In all broadband programs it remains vitally important that tribal governments retain authority over projects intended to serve Indian Country. All too often States do not view Pueblos and Tribes as partners in deploying broadband capabilities. To this end, we urge States and the Federal Government to consult with Pueblos and Tribes for State-led projects over tribal landholdings. Furthermore, we need protection to guarantee tribal priority within priority broadband windows to eliminate the incidence of Tribes competing with non-tribal entities.

Transportation

We are thrilled to hear that the Bipartisan Infrastructure Law established a fixed percentage for Public Transportation on Indian Reservations. We are always in need of assistance with maintaining our roads and we welcome all operational support that the Bipartisan Infrastructure Law provides. Similarly, we look forward to accessing the Law's program funds for repairing our roads, bridges, bike and pedestrian infrastructure, and transportation funds dedicated to improving our children's commutes to and from school.¹⁰

We are also excited about the Bipartisan Infrastructure Law's investment in an Electric Vehicle Charging Network, and the Law's particular commitment to developing the Network in rural communities. As one of the sunniest regions of the country, we see tremendous potential to stimulate our economy through this program. Moreover, we will be proud to introduce these charging stations into our communities, fueled by clean and local solar power. As you know, protection of our lands and of our Earth is vitally important to our Pueblo cultures.

As a final note, we would like to encourage the Federal Government to move away from funding tribal programs out of appropriations from the General Fund. Frequently, tribal programs are authorized, but funds are never appropriated. Indian Country deserves more than such hollow promises.

⁷ See National Telecommunications and Information Administration, NTIA's Tribal Broadband Connectivity Program Receives More than 280 Applications, Over \$5 Billion in Funding Requests (Sep. 8, 2021) <https://broadbandusa.ntia.doc.gov/news/latest-news/ntias-tribal-broadband-connectivity-program-receives-more-280-applications-over-5>.

⁸ *Build.gov*, Building a Better America: Bipartisan Infrastructure Law Rural Playbook, 2 (April 2022).

⁹ *Id.* at 3.

¹⁰ Surface Transportation Block Grant Program; Rural Surface Transportation Grant Program; Rebuilding America's Infrastructure with Sustainability and Equity (RAISE); Clean school bus program.

Conclusion

Once again, I would like to thank you all for the opportunity to testify before you today. I look forward to working with you to ensure that all of the needs of Indian Country are met.

The CHAIRMAN. Thank you very much, Chairman Mitchell.
Mr. Frazier, please proceed.

STATEMENT OF HON. HAROLD FRAZIER, CHAIRMAN, GREAT PLAINS TRIBAL CHAIRMAN'S ASSOCIATION

Mr. FRAZIER. Thank you. I want to begin by saying thank you to Senator Rounds for his introduction. You truly are a friend to our people. Thank you.

I am honored to be here today. I am Chairman of the Great Plains Tribal Chairmen's Association which consists of North Dakota, South Dakota and Nebraska. I am also Chairman of the Cheyenne River Sioux Tribe.

I want to start by saying our connection with the Federal Government is based through treaties, the 1851 and 1860 Ft. Laramie Treaty. We believe in our treaties and feel these treaties must be upheld.

One of the things I want to talk about is roads. That is one of the biggest issues in our region, roads and the condition of our roads. On our reservation, we have 350 miles of BIA roads and only 14 miles is paved, 14 miles, that is it. A lot of our school buses, ambulances, our people, a lot of our roads we have to travel on is all gravel, 40 miles one way, 50 miles back the same way.

One of the biggest problems that prevents us from having good, safe roads is the funding formula. That formula was developed in 2012 and has really a bad, negative impact on a lot of our tribes in our region.

I will give you an example, the Cheyenne River Sioux Tribe has 350 miles of road, BIA roads. We get \$2.2 million a year. When you look at a tribe like the Nebraska Ponca, .2, not even a quarter of a mile roads, and they get \$3 million. Right there shows that the formula is flawed.

The government's solution is grants. It was interesting to hear, there was a question about small tribes not benefiting from grants. I can tell you the large land-based tribes aren't either. So who is benefiting?

One of the main requirements is having these roads shovel-ready, these projects. We don't have a casino. The tribes in our region that do have casinos have them in bad locations, so we are not wealthy tribes at all.

So when we have to do a cash-match, we have to use our TTP funding. Right now, from what we are hearing, we are not able to do that. We want to be able to use and apply for design costs. To give you an example, it is about 8 percent to design a road project. So if we submitted a \$100 million grant, we want to be able to submit a \$108 million grant so you can pay for the design. If not, then we on Cheyenne River will have to wait four years, not doing anything, to get that \$8 million utilizing our TTP funds.

It is not a good requirement to have all these projects shovel-ready. You guys are more than welcome to come to our lands, our reservations and truly drive our roads.

Looking at IHS, I know they got \$3.5 billion. That is awesome and I thank you for that. But one of the things that need to be changed or allowed is to be able to utilize some of these funds for development. Our housing authority, for example, is trying to build a cluster site but they are not able to use this money because it is only for deficient systems, existing systems. There is nothing for development.

So what do we have to do? We have to use our own housing authority funds to put in the infrastructure. That takes away houses that we could have used, that it was intended for but, no, we have to not build a certain number of houses so we can put in the infrastructure. That is one of the things.

When we looked at the Interior funding that is there, it totally ignores the treaties. There is nothing for education, nothing for law enforcement, nothing for roads in the Interior. There is no infrastructure dollars for that.

Another thing is as we were discussing it back home, it really looks like a lot of the funding that Interior has is to pay old debt for the government, clean up abandoned wells that have been abandoned for a number of years or an orphan well. What about today and then for the future?

Hopefully, we can get some changes to where we can access some of that funding for infrastructure today. In the area of education, we need schools.

Thank you.

[The prepared statement of Mr. Frazier follows:]

PREPARED STATEMENT OF HON. HAROLD FRAZIER, CHAIRMAN, GREAT PLAINS TRIBAL
CHAIRMAN'S ASSOCIATION

Chairman Schatz, Vice Chairman Murkowski and Honorable Members of the Senate Committee on Indian Affairs, I am Harold Frazier and I serve as both the Chairman of the Cheyenne River Sioux Tribe of South Dakota and as the President of the Great Plains Tribal Chairmen's Association (GPTCA). The GPTCA is the coalition that represents all the Tribal Chairmen and Presidents of the 16 federally recognized tribes in the states of North Dakota, South Dakota, and Nebraska. We represent some of the largest reservations and largest populations of Indian people found in the United States. Unfortunately, our tribes also constitute some of the most impoverished tribes and populations of people found anywhere in this country.

For these reasons, we are pleased that the leaders of the Senate Committee on Indian Affairs have asked a representative of the GPTCA for testimony at today's hearing. I am glad to see that the Committee has invited a diverse group of tribal witnesses for this hearing. The large land-based tribes of the Great Plains region represent a traditional perspective from the heart of Indian country.

I would also like to recognize Senator Mike Rounds, for his years of partnership and advocacy for South Dakota's tribal nations.

Your invitation asked that I testify on the Implementation of the Infrastructure Investment and Jobs Act (often referenced as the Bipartisan Infrastructure Law or BIL), from the perspective of Native Communities.

While I believe I would be safe in saying that all of Indian Country appreciates the advocacy that the leaders and members of this committee played in securing significant funding increases for Indian tribes in a number of the broader programs authorized by the BIL, it is likely still too early to say how it will ultimately impact tribes because the implementation of it at the federal departmental and agency level is still ongoing and in at least one case, the appropriation to implement a key section of the bill for the tribes I represent, fell far short of the amount authorized by the BIL.

Roads Funding

One of the reasons why we have such rampant poverty among most of the Great Plains tribes is because our reservations are still lacking in the most basic of infra-

structure, not the least of which are roads. On the Cheyenne River Reservation for example, a large reservation of over 2.8 million acres, only 14 miles of the BIA and Tribal Roads are paved. At 2.8 million acres, our land base is larger than the state of Rhode Island and in between the size of Delaware and Connecticut. While some state and county roads are paved, they only constitute a small fraction of our total roads. Our people when they travel for work or other reasons, our children when they are in school buses and those residents in need of emergency response must deal with gravel and dirt roads that at best, tear up our vehicles and at worst are regularly flooded or so poorly maintained that they can be impassable. Honorable Committee members, how can we ever attract businesses and create good jobs when this most basic component of infrastructure is lacking? While we were pleased to see that the BIL increased the authorization for funding for BIA Road Maintenance up to a level of \$50 million in 2022, escalating to \$58 million in FY 2026, that is still a fraction of what is needed as BIA roads alone have a backlog of over \$300 million to get them to an “acceptable” level of safety. However, even the \$50 million amount was not appropriated. The recently enacted FY 2022 Interior spending bill only increased BIA road maintenance funding from \$36.8 million to \$37.4 million. By the BIA’s own admission, only 13 percent of the roads in Indian Country are in good to excellent condition. A few years ago, the BIA said 16 percent of their roads qualified as good to excellent, so we are losing ground!

The BIL authorized an increase in the Tribal Transportation Program (TTP) at the Department of Transportation via the Highway Trust Fund (HTF), but those funds are allocated via a formula that is so broken that most of the tribes in the Great Plains benefit very little from it. At Cheyenne River, we get \$2.2 million a year in TTP dollars—this is the same amount we have gotten the past 12 years despite significant funding increases going to the TTP. In 2021 the TTP was funded at \$505 million. By comparison in 2019 Delaware received \$186 million in HTF dollars. Since our reservation gets so little from the BIA Road Maintenance program a year (about \$500,000) we must dip in our TTP dollars for basic maintenance to the 25 percent maximum allowed (\$600,000) which leaves \$1.4 million in TTP dollars remaining for road construction, not enough to allow us to undertake any of the critical road construction projects we have identified. So where does all the TTP money go, including the BIL increase? To those tribes who included state and county roads in their National Tribal Transportation Facility Inventory (NTTFI) including off-reservation “access” roads or “proposed” (aka “ghost”) roads. While I am sure the states and counties appreciate the subsidy they get from this program, those roads are eligible for state and county dollars. BIA and Tribal Roads have no other sources of funding. When federal dollars intended to benefit tribes are abused in this fashion, you can see the result. We could endeavor to place more roads in our NTTFI but it would be to no avail as the TTP formula is frozen since 2011 and will not generate more funding for us even if we could add those miles.

We are hopeful that the increase in bridge funding in the BIL will benefit tribes in our region and that could really happen if tribes could use some of the bridge funding for bridge maintenance. It is not clear to us whether that would be allowed. We are also hopeful that we can use our TTP funds as matching funds for some of the programs created or funded by the BIL, such as the Safe Streets and Roads for All program, but last week we heard that we might not be allowed to use TTP funds as a match. We don’t have a casino (or 10 casinos as does a tribe in Oklahoma with no BIA or Tribal roads but who still gets six times the TTP funds that we do), so where do we come up with matching funds? We have just written the Secretary of Transportation asking that he use his discretion to allow us to use federal funds to match some BIL programs. The High Priority Projects Program should be used for projects deemed to be an emergency and should not be reserved arbitrarily for tribes who get less than \$1 million a year in roads funds. The DOT should also use its discretion and ensure we can use bridge money for culverts that essentially act as small bridges on our roads and that are now aged, falling apart, and washing away, causing very dangerous situation on many of our roads.

Tribes often seem to be caught in a catch 22 when DOT only considers shovel ready projects as eligible for its discretionary grant programs. This precludes many Tribes from even applying given the significant design and planning costs involved in preparing a competitive application. We need more flexibility—DOT should allow Tribes to use grant funds to cover costs for pre-construction activities including design and planning. TTP and other federal funds should always be allowed for Tribes to use toward their match requirements. These types of flexibility are especially critical for giving Tribes a fair shot at grant that could help us tackle our largest projects including the Rebuilding American Infrastructure with Sustainability and Equity (RAISE) program and the Mega Program (known statutorily as the National Infrastructure Project Assistance program).

Water Infrastructure

As you might imagine, with a 2.8-million-acre reservation in a remote area with a harsh climate, we face many challenges in providing a safe and reliable water supply to our people. With help from several federal agencies and support from the South Dakota Congressional delegation over the years, we were able to complete a large project that is bringing water from the Missouri River (Lake Oahe) through an intake system then through an untreated water line, a water treatment plant and then a treated water line. This system is, at long last, delivering potable water to the town of Eagle Butte, which is the largest town on the Reservation and the location of Tribal headquarters (as well as other federal agency offices). The next step is to expand the delivery system to other towns and communities around this large Reservation, we are working on building distribution lines to get water from Eagle Butte north to Timberlake and west to Faith in Meade County. We have gotten some funding through grants and loans from USDA-Rural Development to help build the system north to Timberlake, but still need nearly \$55 million to complete the distribution system to our western border. Beyond this, additional funding will be needed to run water lines to individual homes and businesses. Many of the Great Plains Tribes have water projects of similar scale awaiting funding.

While there is funding for water programs at several agencies in the BIL, it is challenging for us to access and utilize this funding when each agency has different requirements on allowable uses, cost sharing and more. An additional challenge in pursuing new housing and other community development projects, are onerous requirements such as the long-standing prohibition on using Indian Health Service Sanitation Facilities Construction funds to hook up new homes constructed with funding through the Indian Housing Block Grant program at HUD. This needless prohibition is stifling housing development. While we are pleased that the BIL includes \$3.5 billion at the IHS for domestic and community sanitation facilities, and this will help us complete several small projects at Cheyenne River that have been awaiting funding for years, we would urge both the IHS and Congress to provide more flexibility to allow these funds to cover new development projects and not just those projects that are already identified on the existing IHS Sanitation Deficiency System (SDS) inventory. We hope that as agencies make funds available to Tribes they provide us the utmost flexibility to utilize funds for our unique water needs and to waive cost-sharing and other requirements to the maximum extent allowed.

Climate Resiliency and support for drought relief programs

2021 presented one of the worst droughts in recent memory on the Cheyenne River Reservation and many of our neighbor tribes are facing similar conditions. According to the U.S. Drought Monitor, CRST was in a D3 drought (Extreme Drought) for most of the year. So far 2022 finds us to be in the second driest year we have experienced over the last 128 years. This presents immense challenges for the agriculture industry, which is the primary economic driver on our reservation. These current and extended drought conditions have presented two major problems for our producers. First, the lack of moisture has eliminated the ability to graze animals and our producers have been forced to provide high-cost feeds to their cattle and horses to get them through the winter, forcing some to sell their herds. Second, is a lack of available water for livestock to drink. Stock dams are extremely low or completely dry making it impossible to utilize grass when it is available. This situation leaves our Tribal producers struggling to gain some stability and profitability given the drought and it compounds challenges they already face due to predatory lending practices and volatility in the markets. If relief is not brought soon many of our cattle ranchers will face the threat of sell downs and sell outs.

To help remedy this situation we have identified the need for over \$32 million in funding to combat the drought and provide relief to our native producers and help save our economy. This includes \$21 million for feed assistance including hay, grass, and corn and \$11 million for water assistance to extend pipelines and install water tanks. Due to the remote nature of our reservation hauling water to large cattle herds is ineffective and inefficient. We also request that all relevant federal agencies, including the U.S. Department of Agriculture and the Bureau of Indian Affairs take any and all necessary measures, including emergency water assistance for pumping water into stock dams or extending water lines off of existing water sources, as well as providing reimbursement for costs such as feed purchases and livestock transportation to feedlots to help sustain our producers.

While the BIL includes \$216 million in funding at the BIA for Tribal Climate Resiliency and Community Relocation, we ask that the agency put the needs of Tribes addressing drought conditions on par with those utilizing other aspects of the Resiliency funding. We would also request that Interior, USDA, and other relevant agen-

cies work together to make BIL funding available to Tribes to address drought in an accessible manner.

Funding for infrastructure needs not included in the BIL

While the BIL includes a broad array of funding for infrastructure programs at agencies across the federal government that tribes appreciate, there are a few areas I would like to highlight that did not receive funding in the BIL despite urgent and significant needs in Tribal communities. Perhaps if there is further legislation this year, the Committee may want to advance these as priorities.

Housing

At Cheyenne River we have identified the need for at least 700 new housing units to be constructed to ensure that all our citizens have a safe place to live. In a 2017 report the U.S. Department of Housing and Urban Development (HUD) found that “the lack of housing and infrastructure in Indian Country is severe and widespread, and far exceeds the funding currently provided to tribes.” Unfortunately, the main source of federal funding for Tribal housing, the Indian Housing Block Grant (IHBG), has been mostly level-funded for the past 20 years, failing to even keep pace with inflation while housing needs continue to increase. The IHBG relies on an outdated formula that severely undercounts our population, robbing us every year of critical housing funds. The 2017 HUD report identified an immediate need for 68,000 units of new, affordable housing in Indian Country to replace substandard or overcrowded units. The unique status of trust land creates additional obstacles for our housing authority and citizens to access traditional mortgage products and financing for housing. While we appreciate the work of Chairman Schatz to increase funding for Native housing this year through his role leading the Appropriations subcommittee that oversees HUD funding, we would urge you to work to pass additional infrastructure legislation that provides supplemental funding to update existing housing and construct new housing on tribal lands.

Bureau of Indian Education schools

More than 85 BIE funded schools across the country are in poor condition. 24 of these schools are in the Great Plains region. Our Cheyenne Eagle Butte School (CEB), which is operated by the BIE and serves students in grades kindergarten through 12, is in desperate need of being replaced. The facility is over 60 years old and as early as 1993 the BIE has said that the school was unsafe and unfixable. Simply put, the school is crumbling and presenting a danger to our children, educators, and staff. Our children often attend school in the winter with heavy jackets on due to a deficient and malfunctioning heating system which results in many classrooms having a temperature below 50 degrees. Mold is a major health concern at CEB as it continues to grow in latent areas and there is also asbestos exposure due to failing walls, floors and ceilings and cracks in the foundation. There is also unrepaired water damage from flooding and leaking in the roof which results in dangerous electrical hot spots. The inadequate electrical system has prevented us from placing any additional computers in classrooms—this denies our students access to the technology that is needed to succeed in the today’s workforce. While we are currently working with the BIE on plans and identifying funds for a replacement school, with so many BIE schools in poor condition and only \$264 million provided for BIE construction nationally in FY 2022, it will be decades if not longer before ours and other schools are replaced. Therefore, we would ask you to pass additional infrastructure funding for school construction.

Public Safety and Justice

In 2018, the U.S. Commission on Civil Rights’ Broken Promises report found that there continues to be “systematic underfunding of tribal law enforcement and criminal justice systems, as well as structural barriers in the funding and operation of criminal justice systems in Indian Country” that undermine public safety. The Government Accountability Office (GAO) found that lack of detention space may force tribal courts “to make difficult decisions such as (1) foregoing sentencing a convicted offender to prison, (2) releasing inmates to make room for another offender who is considered to be a greater danger to the community, and (3) contracting with state or tribal detention facilities to house convicted offenders, which can be costly.”

The Cheyenne River Sioux Tribal Court System is housed in two buildings located approximately one mile apart. The Juvenile Court is housed with the Tribal Criminal Court and shares a courtroom. As a result, often hearings must be held in the Judge’s chambers, or rescheduled due to lack of space for hearings. In addition, staffing shortages in the current budget are exacerbated by the separate locations. Further compounding the issues and budget constraints facing the Justice system, the Prosecutor and Public Defender are housed in mobile homes located within

walking distance of the criminal court. During the frequent winter conditions, this results in higher utility costs with so many different buildings to maintain, and heat, and in lost time travelling between buildings.

The original Civil Courthouse is the original jail constructed at Cheyenne River in the 1950s. It is deteriorating. It lacks sufficient storage space for records, and utility costs are very high. It only allows for one courtroom. The more recently constructed criminal court and criminal and juvenile court facilities were constructed over three decades ago when caseloads were less than half of what they are now. The tripling of drug related arrests in recent years, has left our courts unable to even schedule hearings timely let alone hear cases due in part to the inadequate facilities. With a caseload of over 5,900 annually our court facilities are simply unequipped to keep up.

Like the Courthouses and Prosecutor and Public Defender facilities, our Walter Miner Law Enforcement Center housing all detention facilities and the law enforcement department is simply inadequately sized to meet the needs of the current population, and law enforcement staffing. It was originally built over 35 years ago, with capacity to house 45 adults and 10 Juveniles. However, with annual arrests for drug related offenses alone exceeding 900 in 2016, the detention facility is wholly inadequate to protect public safety, and the safety of those detained in the facility. In one five-month period alone in 2016—2017 there were 29 violent crime arrests including on homicide, 26 drug related arrests, and 26 DWIs. In addition, the facility lacks modern secure evidence storage facilities, and inadequate workspace for officers to complete reports or to meet. With the explosion of serious methamphetamine use and distribution, and increase in violent crimes associated with this problem, the law enforcement facilities have not kept pace with the needs of the community. Tragically, in recent years there have been several drug related homicides involving multiple suspects.

To address this need, and to ensure that the Tribe can provide safety for our people across the reservation, a modern Judicial and Justice center is needed. Our plans for this include 28,000 square feet of space to house our courts, prosecutor, and public defender offices and 90,000 square feet for new facilities housing detention and law enforcement. We estimate that the cost to construct this new justice complex to be around \$35 million, underscoring the need for large investments in tribal public safety and courts infrastructure.

In conclusion, one issue I would like to address is the funding formulas through which we see much of our infrastructure funding flow. Many of these formulas are outdated and have been manipulated over the years in a fashion that has been detrimental to large land-based tribes. The committee should take a hard look at this and devise policies that distribute funding in an equitable manner based on true need and current and agreed on data.

Thank you again for the opportunity to testify today on these critical issues and I look forward to answering any questions you may have.

The CHAIRMAN. Thank you very much, Mr. Frazier.
Mr. Yoshimi, please proceed with your testimony.

STATEMENT OF GARRET YOSHIMI, CHIEF INFORMATION OFFICER/VICE PRESIDENT, INFORMATION TECHNOLOGY, UNIVERSITY OF HAWAII

Mr. YOSHIMI. Good afternoon, Chair Schatz, Vice Chair Murkowski and members of the Committee.

Chairman Schatz, thank you very much that generous introduction. I will attempt to do my best to live up to the introduction. Thank you most of all for allowing me to testify remotely. Good morning from Honolulu.

We definitely look forward to the Committee providing an opportunity to hold hearings in person in Honolulu in a few weeks. We look forward to having all of you folks visit us here in Hawaii.

I will highlight key points from my testimony in the hope of helping folks understand our distinctive plans in our multi-island State to ensure that every resident can access the benefits of robust broadband access in support of essential education, health, civic society and economic vitality.

My team at the University of Hawaii and I are, on behalf of the State of Hawaii and Governor Ige, responsible for coordination of Hawaii's efforts to maximize the strategic use of the once-in-a-lifetime Federal investments in technological and human infrastructure that will ensure sustainable, robust, resilient and affordable broadband access to all of our residents. This coordination role cuts across all agencies and brings our proven expertise to work with Hawaii's Department of Hawaiian Homelands to collaboratively maximize benefits from the Tribal Broadband Connectivity Program.

After the last recession, our university led the work to transform education by leveraging Federal funds to pull last mile and interconnect fiber to every public school, public library and public higher education site on every island. We are now prepared to take the next step in service to the public.

Hawaii's a unique, isolated island geography presents special, high-cost challenges to solving vigorous broadband delivery to our communities. For us, that absolutely requires that we work together to solve or special submarine and terrestrial middle mile challenges. Along with these unique, hard infrastructure hurdles, it is critical that we broadly address the longstanding digital equity and literacy issues faced across the Country that otherwise will prevent us from fully realizing the community benefits possible from our broadband investments.

We have already pulled together the key public and private entities to work together to solve these challenges for our State. Our challenge now includes working together with our Federal program partners to get the work done.

Planning is critically important and we need to get to execution to deliver the expected benefits to our communities. The Federal investments will allow us to work as true partners with our private sector counterparts and overcome their traditional shareholder return on investment guiderails that have heretofore left Hawaii citizens and many other rural and economically isolated communities behind the broadband curve.

UOH really appreciates this unique opportunity to make generational investments that are absolutely critical to essential education, health care and public services. We look forward to doing the hard work necessary to execute our project plans.

Thank you again for the opportunity to testify. I will stand by to answer questions.

[The prepared statement of Mr. Yoshimi follows:]

PREPARED STATEMENT OF GARRET YOSHIMI, CHIEF INFORMATION OFFICER/VICE
PRESIDENT, INFORMATION TECHNOLOGY, UNIVERSITY OF HAWAII

Good afternoon, Chair Schatz, Vice Chair Murkowski and members of the committee:

Thank you for allowing me to testify this afternoon representing the State of Hawaii's broadband interests. In the interest of maximizing the benefit to Hawaii to strategically invest the once-in-a-lifetime public funding opportunity, Governor Ige requested that we collaborate with all of Hawaii's public and community stakeholders to coordinate plans and efforts to help ensure robust, reliable and affordable broadband access for all of Hawaii's citizens. This includes the substantial funding to the State of Hawaii, Department of Hawaiian Homelands (DHHL) under the Tribal Broadband Connectivity program funded through the Consolidated Appropriations Act of 2021 (CAA) and the Infrastructure Investment and Jobs Act (IIJA),

representing a total of at least \$90 million to directly benefit the native Hawaiian community. As a key strategy to maximize the overall investment in broadband infrastructure and support for the State of Hawai'i, we are working with DHHL leadership to ensure that we can appropriately leverage the direct investment, together with the substantial amounts anticipated to benefit Hawai'i's overall broadband portfolio; that overall statewide investment will also benefit the native Hawaiian community at large.

On behalf of Governor Ige and the State of Hawai'i, we are grateful for this once-in-a-lifetime opportunity to make strategic investments in infrastructure, and wrap-around digital equity, literacy and adoption support services to ensure that our citizens will be empowered with critically needed broadband service for current and future generations. Our responsibility in this statewide coordination role is to align the set of program opportunities with the critical needs of Hawai'i, to identify the strategic efforts that will maximize the benefits from the available funds, to identify and enable the assembly of effective competitive proposals, and to coordinate all of these efforts to ensure we can support the objective of sustainable, robust, resilient and affordable broadband access for all of our residents.

Our statewide coordination efforts began in 2021, anticipating that multiple programs were being crafted to deliver substantial Federal support to states. Having decades of in-house experience with state, regional and national critical telecommunications infrastructure, we had already been working to independently encourage investments in critical trans-Pacific submarine fiber optic cable systems to ensure that Hawai'i would not be forced to re-visit the bandwidth supply shortages of the 1990s. Prior works had already demonstrated that significant new capacity would be required in all manner of statewide broadband infrastructure to adequately empower our citizens to access and benefit from the future of education, healthcare, entertainment, commerce and the full range of global information resources. A critical gap in commercial investments was evident as the aging inter-island submarine fiber optic cable systems, and the terrestrial fiber middle mile systems connecting those submarine systems were showing their age, and causing concern as to the capacity and reliability of modern broadband services supporting essential education, healthcare and government services. The limited capacity in this crucial middle mile infrastructure was a major factor in keeping Hawai'i's residents from access to truly robust broadband services, while the risk of service interruption was unfortunately too close for comfort—a fault in one of the inter-island submarine systems demonstrated the devastating impacts possible as most of the island of Kauai (over 70,000 residents) was literally cut off from the Internet (and cable TV and phone service) for nearly a full day in 2019.

Under the leadership of University of Hawai'i President Lassner, and with the support of multiple grants from the National Science Foundation, we have been working to develop programs and high capacity network access activities around developing trans-Pacific submarine cable systems throughout the Pacific region. In addition to successfully acquiring capacity on one of the new trans-Pacific systems in 2018, we've collaborated with a number of international partners to build connections on Guam, serving as an extension of our own network to directly connect with Australia, New Zealand, Singapore and Japan, as well as numerous other points at the western rim of the Pacific. These efforts and the successful uses of the resulting robust broadband access underscore the critical need to continue to develop Hawai'i's assets to encourage future global connectivity, and ensure our communities have access to global information resources. As with the numerous island countries throughout the Pacific, it is critical that we pay attention to ensuring our own islands of Hawai'i have the necessary robust and resilient capacity to connect all of our citizens to the benefits of broadband services.

In addition to the critical and unique challenges with broadband technology infrastructure serving our isolated island geography, we also believe that the range of wrap-around services supporting digital equity, access and literacy are absolutely critical to effective adoption and use of broadband services. Together with direct outreach and support by DHHL to its own native Hawaiian communities, we expect that our statewide efforts will provide broad opportunities to elevate the overall digital literacy of our community, and in doing so, help to address historical inequities in access to and effective use of technologies including broadband services. We will intentionally integrate wrap-around support services as a pillar of our investment strategies to help ensure that historically disadvantaged communities have opportunities to access and effectively utilize the breadth of information and services enabled by our extended broadband infrastructure. Early efforts to assess and deploy solutions for the digital equity and literacy needs of the community are underway, and will serve as the basis for the statewide digital equity and literacy planning and capacity efforts to be supported by the anticipated IJA-established programs. Com-

bined with a number of broadly supported technology workforce development and training efforts, these digital equity and literacy programs will be integrated to provide broad support for our widely distributed community needs.

Anticipating direct receipt of substantial Federal funds, DHHL Director William Aila, Deputy Director Tyler Gomes and Special Assistant Niniau Kawaihae, started work on planning for deployment of services to support the range of DHHL statewide locations and beneficiary communities. Their initial assessment of costs to provision statewide coverage did identify significant cost and availability hurdles, in particular for connectivity between the widely distributed native Hawaiian communities on all islands. As part of our statewide coordination role, we engaged in early and ongoing conversations with DHHL and their retained consultants to help round out their understanding of the Hawai'i telecommunications market. While the specifics of the infrastructure to be deployed remains to be fully developed, we expect that DHHL will look to implement a mix of fiber-to-the-premises and fixed wireless services to support connections throughout its communities to fully address unserved and underserved locations, to overcome the limited availability of services offered by the current incumbent provider. The planned build-outs together with the anticipated statewide coverage by Low Earth Orbit (LEO) provider Starlink/SpaceX, will effectively help to ensure services are universally available in DHHL communities. The DHHL efforts will also address the individual needs of the native Hawaiian members of community, fully coordinated with our statewide efforts to build and fund the critical human support infrastructure.

The high cost middle mile infrastructure constraints we identified independently of the DHHL team, were consistent with the challenges DHHL and its consultant flagged during the initial planning effort. As part of our overall coordination role for statewide investments, we did identify the opportunity to share access to new strategic middle mile assets, including inter-island submarine fiber optic cable systems, as a clear win emerging from cooperative planning and deployment across the range of Federal programs, including the Tribal Broadband Connectivity program. Our overall statewide efforts include coordination of use of a number of broadband funding sources, including the US Treasury Coronavirus Capital Projects Fund (CCPF) established under American Rescue Plan Act of 2021 (ARPA), and the range of NTIA programs established under IIJA, including the Broadband Equity, Access and Deployment (BEAD) program, the set of Digital Equity programs, and the competitive Enabling Middle Mile Broadband Infrastructure (EMMBI) program. We do expect to make strategic investments in the critical, and clearly aging and brittle, middle mile infrastructure throughout Hawai'i, including new inter-island submarine and supporting terrestrial fiber optic cable routes. These strategic middle mile investments are critical to cover current and anticipated future needs for all manner of providers and consumers of broadband services throughout Hawai'i.

Comprehensive efforts to close the gaps in middle mile, last mile and wraparound support services are critical to ensure Hawai'i's communities are properly supported to thrive into the future. We expect the critical middle mile efforts will be funded by CCPF, BEAD and the EMMBI programs. Further, BEAD and Digital Equity (DE) program funds will address both last mile gaps, and affordability, equity and literacy wrap-around services to maximize the benefits to all residents of Hawai'i. Additional specifics as to the distribution of projects between the various sources will be completed as soon as the NTIA notice of funding opportunity (NOFO) material is released for BEAD and EMMBI (anticipated on or about May 16th). In advance of these program rules being available, we have been working with a number of potential partners to plan our approach to address the required construction efforts. This includes the just announced award of landing site survey and desktop design work for the posed inter-island submarine cable system build (funded with State Coronavirus State and Local Fiscal Recovery Fund (CSLFRF) dollars). While we have the state CCPF plans under development, we are looking forward to the guidance that the additional NOFOs will provide so to we can maximize the opportunities for access to the funds. There is also substantial uncertainty around the to-be-released FCC service maps, upon which the distribution formulas for BEAD and DE programs will be based; at this time, our initial planning is around the amounts where we have certainty, with expectation that some additional amounts will become available once the new maps are available later this year.

Looking forward, we expect ongoing challenges and bumps along this road. Effective investment of the public funds will take time, effort and participation on the part of the entire community. Our partners include a number of public entities that each bring our own internal policies and regulations that must be taken into account during project planning and execution. Even with the substantial amounts available, there can never be enough funding to build everything for everyone; all solutions must be value-driven and focus on the investments that will deliver ben-

efit over an extended period of time. Agencies overseeing these programs, in particular NTIA, have been stretched in working through the mass of details necessary to execute on the intent of the new laws, including the need to staff new programs from the ground-up, all during a time when expedited execution is the common expectation. We fully expect demands on all of us to increase exponentially over the next couple of weeks with the anticipated release of NOFOs for perhaps three additional new NTIA programs (BEAD, DE plan and EMMBI), established under IJA. Many of the new programs are working hard to establish and fully vet rules, criteria, proposals and plans, and have experienced delays in getting to execution. Now is the time to take on fully collaborative execution, and work to get newly minted programs into delivery mode.

Thank you for the opportunity to testify this afternoon. I am happy to answer any questions, and to provide clarification on our activities here in Hawai'i.

The CHAIRMAN. Thank you very much, Mr. Yoshimi, for testifying.

Ms. Borrromeo, please proceed.

STATEMENT OF NICOLE BORRROMEO, EXECUTIVE VICE PRESIDENT/GENERAL COUNSEL, ALASKA FEDERATION OF NATIVES

Ms. BORRROMEO. Aloha, Chairman Schatz, Vice Chairman Murkowski, and members of the U.S. Senate Committee on Indian Affairs. Quyanaa for the opportunity to testify today on Setting New Foundations: Implementing the Infrastructure Investment and Jobs Act for Native Communities.

My name is Nicole Borrromeo and I serve as the Executive Vice President and General Counsel of the Alaska Federation of Natives.

Established in 1966 to achieve a fair and just settlement of our aboriginal land claims, AFN is the oldest and largest Native organization in Alaska. AFN counts as members 158 federally-recognized tribes, 10 regional and 141 village Native corporations established under the Alaska Native Claims Settlement Act and all 12 regional tribal non-profits that compact to run Federal programs under the Indian Self Determination and Education Assistance Act.

As Vice Chairman Murkowski mentioned, having recently formed a consortium of eligible Native entities to apply for the National Telecommunications and Information Administration's Broadband Connectivity Program for use and adoption grants, and just hours ago, being told that we were, in fact, a recipient of an award, AFN is well positioned to help the Committee understand some of the challenges facing the Native community with respect to the IJA.

Today, however, I want to focus my testimony on one issue and one issue alone, which is permitting. I trust the Chairman, Vice Chairman and other members of the Committee will refer to my written testimony for other important matters.

In AFN's view, the number one post-award failure to success under the IJA is permitting. True, there is \$13 billion earmarked for tribal communities and Native entities under the bill. However, if our tribes, Native corporations, tribal and Native Hawaiian organizations cannot permit, the resources that the members of this Committee worked so hard to secure for us as Native people will be returned to the Department of Treasury.

AFN suggests two solutions. First, in Alaska and other States with high acreages of Federal public lands, please encourage, if not mandate, that the Department of the Interior either enter into a

joint memorandum of understanding with the respective Federal agency who has issued the infrastructure award to develop and implement one permit for both departments, or to create one permit for the entire Department the Interior.

By example, in Alaska, just one infrastructure project may touch on lands managed by four agencies within the Department of Interior: the Bureau of Indian Affairs, the Bureau of Land Management; Fish and Wildlife Service; and the National Park Service. Each of these agencies in turn have their own permitting processes and sometimes they conflict with each other which causes unnecessary delays.

Second, please encourage or mandate all Federal departments and agencies to strictly adhere to the FAST Act. Doing so will bring about a deliberate, transparent and predictable Federal permitting process for all tribal infrastructure projects.

I want to say mahalo to your commitment to Indian Country and to the Islands for making sure that we as Native Americans, Alaska Natives, and Native Hawaiians were not overlooked in this once in a generation infrastructure package. I also want to extend a special mahalo to Lucy Murfitt and Amber Ebarb from the Senate Committee on Indian Affairs. They have provided invaluable support to Alaska, not just recently, but during their tenure in the Senate.

Also to Adam Geisler and Nick Courtney at the National Telecommunication and Information Administration. I know Adam took some tough questioning from the members of this Committee earlier, but he really has been such a great example of what is possible with a Federal employee.

Finally, at the Department of Treasury, Fatima Abbas, we could not have moved the mountains we have recently moved in Alaska without Fatima being over there. I welcome the opportunity to answer any questions you may have. Thank you for having me.

[The prepared statement of Ms. Borromeo follows:]

PREPARED STATEMENT OF NICOLE BORROMELO, EXECUTIVE VICE PRESIDENT/GENERAL COUNSEL, ALASKA FEDERATION OF NATIVES

I. Introduction

Thank you, Chairman Schatz, Vice-Chair Murkowski, and Members of the U.S. Senate Committee on Indian Affairs, for inviting me to testify today on “Setting New Foundations: Implementing the Infrastructure Investment and Jobs Act for Native Communities.” My name is Nicole Borromeo and I am the Executive Vice-President and General Counsel of the Alaska Federation of Natives (AFN).¹

Established in 1966 to achieve a fair and just settlement of Alaska Native aboriginal land claims, AFN is the oldest and largest statewide Native membership organization in Alaska. Our members include most of Alaska’s federally recognized tribes; most of the regional and village Native corporations (ANCs) established under the Alaska Native Claims Settlement Act of 1971;² and all of the regional non-profit

¹ Shareholder of Doyon, Limited, the ANCSA regional corporation for Interior Alaska, and the Board Chairman for MTNT, Ltd., the ANCSA village corporation representing four Interior Alaska villages. Member of the Alaska Redistricting Board; the U.S. Census Bureau’s National Advisory Committee on Race, Ethnicity, and Other Populations; and the U.S. Department of Energy’s Indian Country Energy and Infrastructure Workgroup. Founding Board Member of Justice Not Politics Alaska, a nonpartisan organization promoting the independence of Alaska’s judiciary. Mentor in the Color of Justice Program. J.D., University of Washington; B.A., the University of Alaska-Anchorage. I reside in Anchorage with my husband and our four children.

² 43 U.S.C. § 1601 *et seq.*

tribal organizations that contract or compact to administer federal programs pursuant to the Indian Self-Determination and Education Assistance Act of 1975.³

Having formed a consortium of 74 “eligible entities” to apply to the National Telecommunications and Information Administration (NTIA) for a Tribal Broadband Connectivity Program (TBCP) use and adoption grant in September of last year, and diligently responding to the agency’s request for additional information as late as last week, AFN is well positioned to help the Committee understand the challenges facing the Alaska Native community with respect to the Infrastructure and Investment and Jobs Act (IIJA).⁴

IIJA is similar to a man shipwrecked in the middle of the ocean with no drinking water. He is surrounded by water, yet he cannot drink it. Sadly, many Alaska Native tribes, Native corporations, and tribal organizations—as well as Native Hawaiian organizations—are in this same boat. According to the White House, IIJA has surrounded eligible Native entities with more than 350 infrastructure programs spread across a dozen federal departments and agencies,⁵ yet they do not have the manpower or money, let alone a stable Internet connection in some instances, to apply.

For the past 10 months, AFN has been running a *COVID-19 Navigator Program*. The Program was initially funded through the State of Alaska’s Coronavirus Aid, Relief, and Economic Security Act (CARES)⁶ allocation. However, more recently the Program has been funded through a regional ANC’s tribal CARES Act allocation.

Through our *COVID-19 Navigator Program*, AFN identifies federal grant opportunities that Alaska tribes, Native corporations, and tribal organizations are eligible for; participates in federal/tribal (or ANC) consultations; submits written comments for most of these opportunities, and works with eligible entities to apply. We provide a bi-weekly newsletter and arrange monthly webinars and training sessions with federal officials to explain how their respective programs work.

AFN has also hired a cadre of “Regional Navigators” to work one-on-one with individual tribes, Native corporations, and tribal organizations to make sure they know about upcoming federal grants and, if we are able, provide grant writing services. In some cases, such as the TBCP administered by NTIA, we have formed a consortium of “eligible entities” to help ensure Alaska’s tribes, Native corporations, and tribal organizations with limited resources are able to access federal programs.

The one constant refrain we hear from nearly every Native entity we talk with is: “we are overwhelmed.” Turnover is high due to the nearly daily tribal consultations, never-ending quarterly compliance reports, and other COVID-19 stressors.

Make no mistake: having more than 350 federal grant opportunities that our tribes, Native corporations, and tribal organizations (as well as Native Hawaiian organizations) may be eligible for through IIJA is a high-quality problem to have. However, unless this Committee works with their colleagues in Congress to better structure the opportunities in IIJA, the divide between the “haves” and the “have-nots” in Indian country and across the Islands will become wider and deeper.

The good news is there are some simple steps this Committee can take to address some of these problems.

II. Recommendation No. 1: Permit Tribes, Tribal Organizations, Native Corporations, and Native Hawaiian Organizations to Submit a Paper Grant Application if Their Community is “Unserved” by Broadband

A major hurdle encountered by a number of Alaska Native entities when presented with an IIJA grant opportunity is most federal program applications can only be submitted electronically. Unfortunately, this requirement excludes many remote Alaska tribes and Native corporations and serves as a form of structural exclusion. For example, the Tribal Broadband Connectivity Program required “eligible entities” without broadband to submit their applications online for the \$1 billion that was set-aside for tribes. Paper applications were not permitted. That requirement seems overly stringent.

In the case of Rampart, a small, rural, Native village, the Tribal Administrator had to float down a portion of the raging Yukon River by skiff for 20 miles, get out on the other side of the river, walk several miles to a road, only to hitchhike to the nearest city with broadband to submit the Tribe’s application for a federal IIJA program. This is not fair to similarly situated tribes. When tribes, Native corporations,

³ 25 U.S.C. § 5301 *et seq.*

⁴ P.L. 117–58.

⁵ The White House, *Building a Better America: A Guidebook to the Bipartisan Infrastructure Law for State, Local, Tribal, and Territorial Governments, and Other Partners*, (Jan. 31, 2022) https://www.whitehouse.gov/wpcontent/uploads/2022/01/BUILDING-A-BETTER-AMERICA_FINAL.pdf (last visited May 2, 2022).

⁶ P.L. 116–136.

tribal organizations (and Native Hawaiian organizations) do not have access to reliable broadband, they should be allowed to mail paper copies of their applications to federal agencies.

One federal agency at the Department of Health and Human Services when confronted with this scenario said, “it’s not our problem.” Only six of Alaska’s 229 tribes were able to participate in that agency’s programs. When AFN inquired about making an exception to the rule, we were told that no exceptions could or would be made.

In contrast, the Rural Development Administration which is used to dealing with rural communities allows tribes with inadequate broadband to submit paper applications. They should be the model.

AFN recommends this Committee champion an amendment that applies government wide requiring all federal agencies to accept paper applications when eligible Native entities have inadequate broadband. This could be a stand-alone bill, or an amendment to the General Provisions in the Financial Services Appropriations bill. Draft language for purposes of the Committee’s consideration is as follows:

Sec. _____. Hereafter, notwithstanding any other provision of law or requirement of a Notice of Funding Opportunity or similar instrument, any grant application or request for assistance may be submitted by United States mail or by mailing service by tribes, tribal organizations, Alaska Native Corporations, or Native Hawaiian organizations located in communities unserved by broadband as defined by the National Telecommunications and Information Administration, so long as such application or request is postmarked or marked by the mailing service no later than the application deadline and applicant retains the receipt of mailing as proof of timely filing.

III. Recommendation No. 2: Permit Tribal Organizations to Submit Consortium Applications on Behalf of Tribes

Many of Alaska’s 229 tribes have been designated by the Bureau of Indian Affairs (BIA) as “small and needy.” Small is defined as having fewer than 1,500 enrolled tribal members. Needy is defined as having less than \$160,000 in income (\$200,000 for Alaska).

Many of these “small and needy” tribes have a skeleton staff of one or maybe two people who often work part-time, yet these tribes are often the ones with the greatest needs, including:

- No running water
- Open sewers
- Severe overcrowding
- Extremely high poverty rates
- Energy costs that are 1,000 times the national average

These tribes do not have the capacity to apply for federal grants in their own right, and instead rely on their affiliated tribal organizations to submit applications for them. Yet unless Congress specifically authorizes a tribal organization to apply for a federal program for the tribes in their “service delivery area,” some agencies reject applications from tribal organizations.

A recent example is the Tribal Libraries program at the Institute of Museum and Library Services. This Committee created a separate grant program for tribal libraries called “enhanced library grants.” Only four of Alaska’s 229 tribes applied. Some 173 tribes did not apply for the basic library grant.

AFN obtained tribal resolutions from nearly 100 Alaska tribes so we could submit a consortium application on their behalf but was advised that this was not permitted under the statute. Consortia applications were permitted only from a tribe that gathered other tribes into its application—not by a tribal organization that served those same tribes. As a result, less than 20 percent of Alaska tribes will be able to participate in this program.

To address this issue, AFN recommends two actions:

1. Ideally every Congressional committee would authorize tribal organizations to apply for federal grants and other assistance for tribes at their request, so long as the tribe provides a tribal resolutions or letter of authorization to the tribal organization.

The Indian Affairs Committee should advise the Legislative Counsel’s office to include authority for tribal organizations for Native grants or at least raise the issue with the members and committee for whom they draft.

2. Alternatively, the Indian Affairs Committee should include a blanket authorization for tribal organizations to submit applications on behalf of requesting

tribes, as part of a freestanding bill, or as a rider to the Financial Services Appropriations bill. Draft language for purposes of the Committee's consideration is as follows:

Sec. _____. Hereafter, notwithstanding any other provision of law, a "tribal organization" as defined in Section 4(l) of P.L. 93-638 may submit or file any grant application or other request for assistance to any federal department, agency, commission, independent agency, or instrumentality of the federal government on behalf of an "Indian tribe" as defined in Section 4(e) of P.L. 93-638 so long as such application or request is accompanied by a tribal resolution or letter authorizing such tribal organization to submit the application or request on behalf of such Indian tribe.

IV. Recommendation No. 4: Give Federal Agencies Authority to Extend Statutory Deadlines for Grant Programs for 30 Days Upon a Showing of "Good Cause"

A number of recent federal programs authorized by Congress have included statutory application deadlines that could not be met by eligible Native entities for a variety of reasons. While some departments have been willing to extend those deadlines, others have not—leaving many tribal communities out of their programs.

For example, the Congress required that tribes, Native Corporations, and tribal organizations, as well as Native Hawaiian organizations, submit applications for broadband grants to the National Telecommunications and Information Administration by September 1, 2021. Unfortunately, that deadline fell right in the middle of the subsistence and commercial fishing season in Alaska. Because of the migratory nature of salmon, fisherman must catch them when they pass by their village or the fish cannot be harvested at all. AFN requested an extension of the deadline, which was understandably denied, on grounds that the deadline was cemented in statute and the law provided no waiver process.

Likewise, other grant deadlines have occurred during the middle of historic storms, electrical outages, and Internet disruptions making it impossible to complete and submit applications in a timely manner.

In contrast, other departments such as Treasury have provided a number of extensions to application deadlines, including statutory deadlines. AFN recommends that every department and agency be given the flexibility to extend a deadline by 30 days, so long as the potential applicants show good cause for the extension. tribal organizations Draft language for purposes of the Committee's consideration is as follows.

Sec. _____. Hereafter, notwithstanding any other provision of law every federal department, agency, commission, independent agency or instrumentality of the federal government may extend any deadline to submit a grant application or other request for assistance by 30 days upon a showing of good cause including engagement in subsistence hunting, fishing, or gathering activities, high pandemic infection rates, disrupted broadband connections, or natural disasters such as floods, hurricanes, tornados, severe storms, or earthquakes.

V. Recommendation No. 5: Increase Resources for Small and Needy Tribes

In 1997 Congress recognized that not all tribes have benefitted from Indian gaming operations, oil and gas leases, or other economic development activities. Many live in abject poverty without even the most basic resources to operate their tribal governments. This is especially true in Alaska.

There are some 310 "small and needy" tribes across the country, many without even the most basic services like running water or human waste disposal. The Interior Appropriations Subcommittee created a special program to help these 310 "small and needy" tribes operate their tribal governments, which includes applying for federal grants.

In the fiscal year 2022 budget, out of the \$355 million provided for the tribal government programs line item, a little over \$4 million was set aside for "small and needy" tribes according to the conference report. While that represents a \$2 million increase over previous years for which we are grateful, it is just under \$13,000 per tribe.

AFN recommends that this Committee hold a hearing on the needs of "small and needy" tribes. We recommend that Congress increase funding to enable them to participate in a more meaningful way in the federal COVID-19 assistance programs and infrastructure programs that it has created.

Alternatively, Congress should consider establishing a new Native Navigator program to empower tribal organizations such as the Alaska Native regional non-profit

tribal organizations to aid the “small and needy” tribes in their regions or provide resources through each of the BIA Regional Offices.

For example, with the right resources, the Association of Village Council Presidents could submit applications on behalf of the 56 largely small and needy tribes in Southwestern Alaska.

VI. Recommendation No. 6: Create a New Website to Help Track all Federal Grant Programs for Which Tribes, Native Corporations, Tribal Organizations, and Native Hawaiian Organizations may be Eligible

As noted above, there are over 350 federal grant programs being provided through IIJA, so it is overwhelming for eligible Native entities to keep up with all the funding opportunities that may be available to them. There is no centralized database to keep up with tribal consultations, when written comments are due, when Notices of Funding Opportunity open up—and when they will be closing—or other key deadlines.

AFN recommends that the Committee, together with support from the Office of Management and Budget, establish a centralized database across all agencies that would be accessed through a new website.

Each federal agency would have a page to highlight its upcoming events, consultations, workshops, trainings, grant opportunities, Congressional hearings and testimony, and other national events.

This data would feed into a master calendar with hyperlinks so that each tribe, Native corporation, tribal organization, and Native Hawaiian organization could track exactly what is happening at the federal level every day, including what comments are due, what webinars are scheduled, (and links to sign in), what application deadlines are coming up, etc.

VII. Recommendation No. 7: Distribute “Dear Tribal Leader” Letters More Widely

In addition, “Dear Tribal Leader” letters should be circulated more widely. There are many groups who seek to assist tribal governments, Native corporations, tribal organizations, and Native Hawaiian organizations—such as the National Congress of American Indians (NCAI), the Alaska Federation of Natives, and the Council on Native Hawaiian Advancement (CNHA). Yet none of these organizations receive “Dear Tribal Leader” letters unless a tribal leader remembers to forward it.

AFN recommends that the various federal departments and agencies allow entities such as NCAI, AFN, and CNHA to sign up for their tribal list serves.

VIII. Recommendation No. 8: Establish a Native American Affairs Office at Every Department and Agency

AFN also believes that every agency should have a Native American Affairs office that can assist tribes, Native corporations, tribal organizations, and Native Hawaiian organizations, access federal programs and provide information and help. Some agencies have excellent programs—Treasury being an example—but other have nothing.

IIJA mandated the creation of a Native Affairs Office at the Department of Transportation located within the Secretary’s office.

AFN recommends that this Committee should mandate such an office for every federal department with the exception of the Department of State. Likewise, each agency that interacts with Native entities should have designated staff available to answer questions and help navigate the process.

IX. Conclusion

Thank you again for inviting AFN to testify as part of today’s hearing on “Setting New Foundations: Implementing the Infrastructure Investment and Jobs Act for Native Communities.” Below is a list of the “best” and “worst” practices for the successful implementation of IIJA in Native communities.

Best Practices

1. Extend application deadlines when necessary.
2. Avoid scheduling multiple grant deadlines in the same month—spread them out instead.
3. Allow eligible Native entities to submit written applications through the mail, particularly when broadband connections are unreliable.
4. Schedule regular workshops and webinars to walk through details of upcoming grant opportunities.

5. When sending reminders to eligible Native entities of upcoming deadlines, provide the name, phone number, and email address of an agency staffer who can answer questions.

6. When a tribal leader or employee of a Native entity makes oral comments during a consultation, agency personnel should summarize what they heard the person saying and answer any questions he or she may have posed—Adam Geisler with NTIA always does this.

7. “Dear Tribal Leader” letters and all information relevant to eligible Native entities should be located on one page of the agency’s website—tribes should not have to spend hours trying to find information.

8. Each agency should have one webpage with all information related to tribes including consultations, application deadlines, application forms, names and contact information for key staff, answers to Frequently Asked Questions, etc.

Worst Practices

1. Scheduling tribal consultations earlier than 1:00 p.m. (EST)—this is unfair to Alaska and Hawaii.

2. Requiring a tribe to submit written comments minutes after a tribal consultation ends or even during the tribal consultation—tribes should be given at least two days after a tribal consultation ends to submit comments in order to include ideas that were discussed during the consultation.

3. Schedule a tribal consultation for one hour—this does not allow sufficient time for a presentation and a period of Q&A.

The CHAIRMAN. I want to thank all of the testifiers. I will start with my questions.

Mr. Yoshimi, what is the current implementation plan and the status for the funds that were set aside for the Department of Hawaiian Homelands in the Fiscal Year 2021 Consolidated Appropriations Act?

Mr. YOSHIMI. Senator, thank you for the question. The Department has put together its preliminary plan and submitted that as part of its original proposal, as you mentioned, to NTIA. The plans involve a number of different elements including delivery of services and support directly to the community as well as significant investments in infrastructure, both in fiber as well as fixed wireless services, to support all of the community members.

There is a lot of work to do. Again, even though there are estimates of costs, as you know, and as construction goes, there are a lot of details to work through in terms of siting and determining exactly how those costs will be deployed as part of the execution process. As you mentioned earlier in your questioning with Mr. Geisler from NTIA, the Department of Hawaiian Homelands does not yet have an agreement with NTIA in terms of executing on the initial CEA grant, but we are hopeful that by putting heads together and really getting the NTIA and DHHL to work collaboratively together, we can get this to move forward.

Obviously folks are frustrated with the amount of time that has ticked away so far, as I am sure you are. We are very interested in making sure the DHHL plans can be executed on as soon as possible, in particular with availability of additional funds under IHF. As we mentioned, we will work together with them to coordinate their work with the rest of the State work that we are responsible for.

The CHAIRMAN. Maybe it is imprudent for me to ask here but my curiosity is sort of killing me. I still don’t understand what NTIA was saying about the DHHL application. Can you shed some light on that, or is that going to get you in trouble?

Mr. YOSHIMI. I will try and maybe describe to the best of my knowledge. The folks at NTIA have worked directly with the leaders at DHHL to try to and work through this. I understand there is some frustration on the part of both parties. Some of that I believe is sourced out of some of the process and procedure restrictions that DHHL operates under as a State entity. Some of those are procurement and contracting laws and policies.

Obviously, there are lots of ways to work through the elements. In my opinion, one of the best ways to work through this is perhaps to at least get some agreement in place to move forward and then do some coordination during execution so that we can be assured that DHHL provides the necessary assurances and compliance back to NTIA to get the work done.

I think there is kind of the missing, a little bit, back and forth in some of the conversations to date, at least that is my understanding based on conversations I have had.

The CHAIRMAN. So each level of government, each agency, has their own rules and they are trying to synch.

Mr. YOSHIMI. Yes, they kind of go like this. I think it is important. I think DHHL is a little bit different than some of the other entities NTIA has dealt with in the past. There is always a way to get this stuff done. Really is a matter of, I think, of getting heads together. Obviously, we would be happy to participate in that as well to move this forward because I think it is critically important to get us into execution.

The CHAIRMAN. Let me know what I can do. Obviously the same goes for Mr. Aila and Mr. Gomes over at DHHL. We want to get this done. I am still confident it will get done. I just wanted to understand what the problem was.

Vice Chair Murkowski.

Senator MURKOWSKI. Thank you, Mr. Chairman.

Nicole, thank you for being so specific in terms of the guidance to the Committee. I think probably the others on the panel would agree that we can't make roads happen, we can't make water infrastructure happen unless we have some sense of the permitting process, keenly identifying a couple of things we need to focus on like joint MOUs but also the FAST Act itself.

The folks at AFN did a great job in supporting us with the Infrastructure Grant Symposium that we had last month. But it was your Navigator Program and the cadre of regional navigators that were important then but are going to be important moving forward as we are all seeking to access the opportunities coming from the Infrastructure Bill.

Given that, do you have any recommendations for best practices you might offer to the White House Council on Native American Affairs or the BIA as to how they might create a larger Federal Navigator Program? You have the Navigator Programs over at DOI. You are having them set up an interagency coordinator position to assist tribes. It seems to me we are designating lots of individuals and entities to be there to help. But how does the individual tribe in a remote area know even where to go? Any guidance on this?

Ms. BORROMEO. Thank you very much for the question, Senator Murkowski.

It is difficult for individual tribes in Alaska. We have 229 of them. They are small; they are under-capitalized. In a lot of instances, they are far removed from our bigger cities, which are not really big cities compared to the lower 48. Internet connections are not stable if they have them at all.

I would encourage the tribes in Alaska and the lower 48, if it applies to them and their regions, to really work through their regional bodies that they have established. The good thing is there are several national and statewide organizations. We are sort of repeating each other's efforts, tracking the grants, making sure that the Native communities know about them and how to apply for them.

In terms of what can all of the other Federal agencies do to help along the way, go out and hire folks like Adam and Fatima and Lucy and Amber and put them to work. We don't need more individuals who are doing things the same way that has been done for the past couple decades. We need fresh ideas. We need hard workers, folks who are willing to think out of the box.

It is not good enough in Indian Country and across the Islands to hit send on an email. That is not how we reach our people. That is not how we are doing it through the Navigator Program. We are faxing, we are using public radio, we are using VHF's. In some instances, we have tracked down a tribal administrator on a commercial fishing vessel in the middle of Bristol Bay during the salmon run and said you have to get back to your office. You have 24 hours to apply for the mandatory minimum ARPA employment allocation that will come to your tribe. It is going those extra miles.

But if we just continue to box check, which also is an unfortunate occurrence a lot of times when we do tribal consultations, we are not going to get there. I often tell Federal agencies if the Federal Government wants to learn how to consult with Native communities and tribes, sign up for one of Adam Geisler's tribal consultations. We will wait on the line for eight hours because he stays on the line with us for eight hours. He knows about the programs. If he doesn't know about them, he writes it down and he follows up. Other agencies oftentimes say, thank you, your two minutes is up. Move on to the next person. Those might be a bit too plain and direct.

Senator MURKOWSKI. I don't think they are too plain and direct at all. I think we know whether you are in the Islands, or you are in Alaska, or you are in South Dakota, as you say, people are communicating in different ways. They are not waiting for that email to come across to find out what they are supposed to be doing next. It doesn't translate that way.

Thank you for making it real. Again, the very, very genuine efforts that the Navigator Program has made, clearly it is yielding dividends. I would commend that to the Committee.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Rounds.

Senator ROUNDS. Thank you, Mr. Chairman.

Chairman Frazier, first of all, let me say thank you for being here. It is always good to see you, sir. I think what you have just represented to the Committee in terms of the challenges that you face and the frustration with regard to trying to get a fair funding

formula for transportation services, I think you laid out as well as anyone has in front of this Committee.

I would also suggest that the discussion that the Ranking Member and Ms. Borromeo have just had regarding consultation is critical as well. It is one that you and I had in my office and that is the need for that consultation.

Let us just visit for a little bit about the funding formula. I do not think folks realize that when the funding formula was put into effect for large area tribes, tribes such as yours, the Cheyenne River Sioux Tribe, or the Rosebud or the Pine Ridge. In each of those cases, the population is not great but the number of roads that have to be surfaced is significant. Yet, the formula does not take that into account.

Talk with us a bit about the frustration that, you kind of got into in your opening statement but I think we should elaborate on it. What happens when you walk in and find yourself with, what can you do with 300 miles of gravel road when you pick up a couple million bucks a year on it total? What can you actually do and what are some of the frustrations you receive in terms of the wash-outs and what happens if you lose a road, what kind of detour that means for the folks in your communities?

Mr. FRAZIER. Thank you. I am going to ask Mr. Longbrake of Transportation to come up. It is really, really frustrating. You go to the BIA, they have the trust responsibility. It is their road. They own the road but yet they have no money. It is very frustrating.

This formula, when you look at where the money goes, I think it is almost criminal, because in there it talks about zero population, zero, but yet some people are still getting money for roads. How can you fund something when nobody lives there according to the formula?

When we look at that, they use a lot of the HUD numbers. We have 25,000 members on our reservation, yet that HUD formula says we only have 6,000. Where did they go? It is a numbers game that is not benefitting us.

I guess Mr. Longbrake can shed a little more light on that.

Senator ROUNDS. Identify yourself very quickly with the Chairman's permission, so we know who you are and what you do, please.

Mr. LONGBRAKE. Good afternoon and good morning in Hawaii. I am Dakota Longbrake, I am the Director of Transportation for the tribe. I am also the Chairman of the TTP Coordinating Committee. I am the Co-Chairman of the TTPCC Road Maintenance Committee as well.

The biggest issue with the new formula is it was put in place at the beginning of MAP-21. It has been in statute since then. The formula is set up to keep, if you did well previous to MAP-21 and tribes received a lot of money through previous transportation bills, this formula is set up to keep tribes basically at that funding level. There are different mechanisms within the formula, the supplemental part, the last part of Part B. All of those things try to get you back up to the level of funding you were at in 2012.

Unfortunately for our tribe and a lot of large land-based tribes that weren't very, very active in the early 2000s on increasing your road mileage with county road miles and tribally owned miles, and

things like that, we are stuck now back to this. The formula uses the road inventory miles from 2011. There has been a lot of miles of roads added to the inventory since 2011, but the statute is stuck with the 2011 funding year. Even if a tribe wanted to add 1,000 miles of new road, you would not get any money at all for adding any of those new miles.

Senator ROUNDS. Let me get to the bottom of this with the Chairman. In reality, what you are saying is we can't fix the formula without an act of Congress?

Mr. LONGBRAKE. Yes. That is correct.

Senator ROUNDS. That is kind of scary. Thank you for that. I think that is one of the reasons we have to move forward and talk about appropriately fixing the funding formula for roads across this Country and make it fair to everybody involved.

I want to talk a little about the Promise Bridge. I was on one of those gravel roads with you, Mr. Chairman. We drove those gravel roads. Some of them are washing out right now.

The Promise Bridge is another example. This was supposed to be, I think, a five-span bridge back in the 1950s. The Corps of Engineers built it intending for it to be there for a long period of time. I also drove by residential spots behind it. There are not a lot of high value homes in there.

The Corps recognized that. They knew there was a cemetery there and yet they put in a shortened span bridge that saved them about \$110,000 back in that time period. In doing so, they understood that even though it should have been a five-span, it was a three-span, and that water backs up whenever we have a major water event.

When it does, it backs up over the cemetery of our relatives there and backs up into the housing area. What we have is a case once again of trying to work for years. In fact, you have been in court, you have come out of court and agreed to work with the Corps to fix it. Once again, it is a matter of not having the appropriate type of transportation funds even to fix a bridge that is causing problems for an entire small community literally flooding the cemetery of your relatives right now.

Mr. FRAZIER. Yes, you know what, one of the things I want to echo, she mentioned about \$13 billion coming to Indian Country. That is awesome and we are like wow, cool. In reality, hardly anything is coming down. I don't know where it is going but it isn't coming to Indian Country to fix the bridges, to fix our roads. That is something we really find very frustrating in that formula. That is what is designed for, roads. It is unreal.

Senator ROUNDS. Mr. Chairman, I want to thank you for coming, for traveling over the gravel roads, with two plane tickets to get here and so forth.

Mr. Chairman, thank you very much for your patience as I go over time. Thank you for this hearing as well.

The CHAIRMAN. Thank you, Senator Rounds.

If there are no more questions for our witnesses, members may submit follow-up questions for the record. The hearing record will be open for two weeks.

I want to thank all the witnesses for their time and testimony.

This hearing is adjourned.

[Whereupon, at 4:10 p.m., the Committee was adjourned.]

A P P E N D I X

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BRIAN SCHATZ TO
HON. MARK MITCHELL

Greetings. My name is Mark Mitchell. I am the former Governor of the Tesuque Pueblo and the current Chairman of the All Pueblo Council of Governors. The All Pueblo Council of Governors represents the twenty Pueblo Nations of New Mexico and Texas. Thank you for inviting me to submit written testimony about this critically important piece of legislation. I am encouraged that this Committee is interested in hearing about the climate realities that the Pueblos face.

Question 1. How are mega-drought conditions impacting the Pueblos' infrastructure maintenance, operation, and construction?

Answer:

Realities of the Mega-Drought Conditions

The Pueblos are situated in the hottest, driest region in this country. We cannot afford for our climate to get hotter—our traditional homelands will become literally incapable of supporting human life. Moreover, the heat is expected to exacerbate drought conditions and threaten our already scarce water resources. We implore you to take further action to fight global warming and substantially invest in the communities that are guaranteed to face the deadly consequences of climate change. Because of climate change, we are already facing hotter, more intense, and more frequent wildfires in our region. In 2016, the Union of Concerned Scientists reported that a global temperature increase of 1.8°F would result in a projected 400 percent increase in wildfire-burned acreage in New Mexico.

We cannot understate the threat that wildfires pose to our community. Our communities are still cleaning up from the most recent round of fires. As you may be aware, the Los Conchas fire destroyed nearly 80 percent of the Santa Clara Pueblo's forested lands, over 50 percent of the Santa Clara Pueblo Watershed, impacted many of the Pueblos on the Jemez mountains, including Cochiti Pueblo, Jemez Pueblo, and San Ildefonso Pueblo, and has prevented safe access to the Santa Clara Canyon, where many sacred traditions are practiced. At the time of the 2011 Las Conchas fire, it was reported that the living trees in the canyon had lower moisture content than the wood typically for sale at a lumber yard. As the Department of the Interior, Interagency Burned Area Emergency Response (BAER) Team noted, the intense flames from the fire burned trees and vegetation off the steep slopes of the canyon and heated the soils, causing severe damage to the natural resources of the area and placing downstream tribal members of the Santa Clara Pueblo at risk to extreme flooding. Because of the high severity of the burn, there has been a dramatic reduction in the infiltration rates in the burned area—the soil is now what is termed by soil scientists “hydrophobic.” The event produced massive debris (including boulders) and severe mud flows to the canyon bottom. The fire has resulted in a four-to eight-fold increase in runoff and sediment/debris flow into the Santa Clara Creek, posing a severe threat to the lives and safety of the people of Santa Clara Pueblo and increasing the potential for widespread property damage.

Additionally, these wildfire events have also had negative water quality impacts as tons of ash, debris and other materials flow into the Santa Clara Creek. This affects fisheries, wildlife populations, agriculture and cultural uses, and causes safety issues within our Santa Clara Canyon due to the destabilized landscape resulting in falling boulders and dead trees. This runoff also flows into the Rio Grande, affecting water quality for those downstream communities as well.

In this one fire, more than 15,000 acres of the 21,440 acres of tribally owned forest lands were destroyed. Worse still, the Las Conchas Fire reburned an area where the Santa Clara Pueblo had planted more than a million trees in an effort to recover from an earlier wildfire. Since the Las Conchas Fire, the Pueblos have only just begun the infinitely more complex process of addressing the regeneration of the forest in the Canyon.

To make matters worse, Pueblo irrigation systems are among the oldest in this nation. Addressing aging water systems, specifically the third-world sewage ponds that many of our Pueblos and Tribes continue to be subjected to, is an urgent need for our communities.

Mega-Drought Fiscal Needs

Congress should always appropriate money for continuing operation and maintenance expenses for the capital projects it funds. However, the Pueblos are presently more concerned with securing funding for the irrigation improvements to phase out the use of unsustainable legacy technology that is not even providing us with healthy water infrastructure. As the costs of labor and materials continue to rise, these overhauls only become more expensive to install.

Unfortunately, unexpected wildfires force us to divert funding intended for other uses, such as routine maintenance and operation of our existing infrastructure, to address the fires. This includes the actual fighting of fires, of course, but also includes costs to clean-up after the fire, such as removing boulders and sediment from our canyons and river systems, and the costs for deploying technology to combat the negative water quality impacts resulting from contamination of our watersheds by these materials.

The Bipartisan Infrastructure Law's \$500 million for Community Wildfire Defense programs is a much-needed investment for our community and we eagerly await its roll-out. We encourage this Committee to consider making a similar yearly investment in such programs. This will enable us to not only react to past events, but to build institutional capacity to deploy preventative programs to reduce the frequency and severity of wildfire events. Recurring funding for this program will also enable us to reach a level of funding that would permit us to actually cover the expenses for operation and maintenance of our regular infrastructure, instead of diverting these funds to help cover emergency response efforts, which, as we noted above, are becoming more frequent and more severe. Along similar lines, we urge Congress to provide as much funding as possible to support post-fire tribal reforestation, clean-up, and mitigation efforts. This funding will also help alleviate some of the pressure that is put on our already limited financial resources.

We also look forward to the opportunities afforded by the Bipartisan Infrastructure Law's investment in rural sanitation and water infrastructure. Congress' decision to provide Sanitation Facilities funding to the Indian Health Service to address backlogged sanitation needs across Indian Country is an excellent initial investment we hope to access to replace our lagoon systems and modernize our water infrastructure. As you know, water projects are fundamentally important to the Southwest. We are heartened by Secretary Haaland's creation of the Drought Relief Working Group to tackle the issue of water insecurity in the West and Southwest.

However, we need your continued support for establishing strong regional water infrastructure now. Regional water infrastructure will help us safeguard our communities from certain water insecurities and health impacts associated with our aging water systems. These investments in water systems will also help us to sustain our life ways and mitigate the increase in wildfires. Unfortunately, Tribes and Pueblos tend to be the last communities to benefit from these regional projects. In the Bipartisan Infrastructure Law, Congress committed to spend \$160 million on the Eastern New Mexico Rural Water System. Unfortunately, not a single Pueblo is served by the Eastern New Mexico Rural Water System. Additionally, in 2017, a report entitled "Irrigation Infrastructure Report for the Rio Grande Pueblos" identified nearly \$280 million of irrigation improvements needed on Pueblo lands. This report still sits unsigned at the Bureau of Reclamation. We need this Committee to urge the Department of the Interior to sign and release the report. Moreover, we need appropriations for the \$280 million worth of need first identified in 2017, as well as funding to fulfil all subsequent fiscal needs that have arisen as a result of aging systems further breaking down, new environmental contamination issues, and inflation of labor and materials costs over the last four years.

We also urge this Committee to undertake all actions necessary to ensure robust Federal water pollution control laws. The health of our Pueblos hangs in the balance when far-away courts interpret water laws to remove pollution restrictions on New Mexico waterways and divest Pueblos of authority to block these projects. Additionally, unexpected contamination of our watersheds is another crisis that forces us to divert other necessary infrastructure funding. We need Congress to take every action to prevent this from happening.

Question 2. Are these mega-drought conditions increasing the overall cost of projects for the Pueblos? And, if so, do the Pueblos have sufficient funds to address these additional costs?

Answer. Rising year-round temperatures on Pueblo lands puts our construction workers at increased risk of heat-related illnesses, including death. We expect that this will raise the cost of labor and health care at a rate that may outpace other regions of the country that are not similarly affected (in addition to the existing elevated costs resulting from inflation). Rising temperatures will also result in increased expenses for wildfire-related activities, including for fire prevention, climate resilience investment, and fire response. We also expect the demand for this labor to increase, and for the cost of this labor to increase as the climate crisis gets more and more severe. We applaud Congress' action to secure \$216 million for tribal climate resilience, adaptation, mitigation, and community relocation efforts. But, you must know that this is not nearly enough.

Second, as we have testified before, cost match requirements constitute an additional obstacle to accessing desperately-needed funds. The Pueblos are already underfunded and our budgets are tight. Most of our funds have already been earmarked for other necessary services and approved by our governing bodies for those purposes. Simply put, we do not typically have the agility to free up governance funds to meet cost match demands of Federal programs. Where not required by the Bipartisan Infrastructure Law, we urge you to ensure that the implementing Federal agencies do not add any such burdens to programs. Securing funding for and complying with cost match requirements increases our costs and takes needed resources away from other programs. We hope that in drafting future legislation you keep in mind the burden placed on Indian Country and choose to forgo cost match requirements entirely.

Question 3. Is it difficult to work with multiple federal agencies to carry out projects meant to respond to or mitigate the impacts of mega-drought conditions? If so, what are the barriers? What can Congress do to help?

Answer. First, given the number of Federal agencies responsible for carrying out programs under the Bipartisan Infrastructure Law, we expect a great variety in compliance requirements and will need all of the technical assistance we can get. These compliance requirements are legal and technical burdens on our Tribal Governments. Many of us do not have dedicated grants administration professionals on staff, and often we do not have the budget to employ grant writers, contract professionals, or attorneys for review of program requirements. It is paramount, therefore, that the Federal government ensures that there are knowledgeable and dedicated agency staff available to provide program application, development, accounting, reporting, and other technical assistance to Tribes throughout every phase of program administration.

To alleviate some of these issues, we need the Federal Government to move together to contemporaneously roll out these programs and streamline application procedures so that we can effectively plan and allocate resources. We need the ability to pair program dollars across agencies and programs to enhance our project goals and maximize our return on investment. To accomplish these efficiencies, we recommend that the Federal Government create a master calendar to manage program application and reporting requirements across agencies. Such a calendar would ensure that the Federal Government implements programs at the same time, and would help Tribes keep track of the dozens of deadlines, reporting requirements, and reporting agencies. Additionally, uniform program requirements across the Federal Government would also provide stability and decrease our compliance costs.

With respect to tribal consultation, we need all federal agencies to commit to meaningful consultation. Meaningful consultation requires that dialogue with Tribal partners occurs with a goal of reaching consensus. Consultation must mean more than merely "checking the box" and cataloguing the objections of Tribal Nations. The goal of sitting down at the table together should be mutual understanding and agreement. Otherwise, consultation is not meaningful. In addition, we need federal agencies to talk to each other and to Congress about our consultations. Time and time again we are asked to provide the same feedback to a different agency, bureau, office, or to Congress. Many of these issues are fixed, so for the sake of efficiency for everyone, we would like to stop repeating ourselves.

We also need all federal agencies to take traditional ecological knowledge seriously. For example, we know that our local forests have become unhealthy, with excessive undergrowth and greater tree density, making conditions ripe for intense wildfire that destroys the entire forest landscape. Moreover, the warming trend will lead to lower elevation tree species moving upslope which reduces the probability of success of our reforestation efforts. Changes in vegetation cover, the adequacy of water supplies, and the frequency and intensity of wildfires, among other natural phenomena, impact the short-and-long-term well-being of our tribal communities and members. We are grateful to the agencies that embrace traditional ecological

knowledge so far. But it is counterproductive to force us to find scientific 'proof' to demonstrate natural processes we already understand and know the signs of. The time we spend convincing the Federal Government that what we say is true is time and money lost for some other important issue.

It is also inherently frustrating to request funding from the Forest Service, or give testimony to Congress, to address the devastating effects of wildfires in our region while other federal agencies continue to prioritize securing oil and gas revenue from their lands. We have said it before, but it bears repeating: the Federal Government must take steps to effectively manage the meta-factors that drive climate change—such as worldwide deforestation, fossil fuel consumption, and greenhouse gas emissions—before it is too late. Acting on climate change today is a moral and legal imperative, essential to all of us as Pueblo People, Americans, and citizens of this world during a period of what now appears to be almost inevitable rapid climate change. We need the Federal Government to consider each project's global carbon footprint. We also need to move to a more sustainable system in which climatically the actions of one agency do not negate the actions of another. We need the Federal Government to aim to be carbon negative if our children are going to have any shot at a habitable climate.

Finally, addressing water resource issues and combatting wildfires requires a regional approach. We need increased Federal willingness to enter into cooperative and interagency agreements for wildfire mitigation efforts—with Pueblos and Tribes as partners. For example, we know that decreased precipitation in the mountains and in the north is affecting atmospheric moisture and snowpack levels which, in turn, affects the amount of water in our rivers. While the Pueblos have banded together to address our local needs, we also need the cooperation of our State, Federal, and local partners upstream. We also need local tribal members employed in Forest Service regional offices to hedge against the high rate of staff turnover at the Service and to ensure continuity of operations and transmission of institutional knowledge when non-locally based staff leave.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BRIAN SCHATZ TO
HON. HAROLD FRAZIER

Question 1. Are you aware of any studies on the economic impact of poor or under-serviced roads in Indian country? If no such study currently exists, would directing a federal agency to undertake one be helpful?

Answer. Yes, such a study would be helpful. I am not sure if one has been done but it is somewhat a matter of common sense that no business is going to locate on a reservation that does not have good infrastructure and certainly passable roads are a key component of the infrastructure any business would need to thrive. The roads on the Cheyenne River Sioux Reservation certainly hinder economic development. Not only for the reason stated above but in inclement weather employees can not always get to work as our roads wash out or are dangerous to pass, sometimes impossibly so. Clearly that is problem relative to economic development.

Here is a web address to a report (arguably not a study) published by the National Congress of American Indians re transportation issues in Indian county:

https://www.ncai.org/attachments/PolicyPaper_YqsLwhwKqnsoykhODfdqeLvPgtHrddwCuXqohOzVyrIdnOXPF-pV_NCAI%20Tribal%20Transportation%20Report.pdf

Among other things it references testimony previously provided to the Senate Indian Affairs from Federal agencies connecting road conditions to tribal economies. A review of testimony from SCIA oversight hearings on transportation over the years may also provide helpful information. Also please see the following web addresses:

<https://www.indianz.com/News/2019/04/04/cronkite-news-poor-reservation-roads-hin.asp>

<https://talkpoverty.org/2021/03/24/failing-infrastructure-indigenous-reservations/>

<https://planning-org-uploaded-media.s3.amazonaws.com/document/Complete-Streets-on-Indian-Reservations-A-Clear-Need.pdf>

<https://www.bizjournals.com/phoenix/news/2016/10/18/native-american-reservations-basic-infrastructure.html>

<https://www.gao.gov/blog/2018/06/28/roads-on-tribal-lands>

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JON TESTER TO
HON. HAROLD FRAZIER

Question 1. Housing development is one of the biggest problems on reservations due to the costs of above-ground construction and below-ground water and sewer infrastructure. Chairman Frazier, would you be able to tell me what flexibility Tribes need in IHS sanitation funding and how they would benefit from this flexibility?

Answer. Senator, I appreciate the opportunity to respond to this important question. For decades, the appropriations bills for the Indian Health Service facilities (water, sanitation, etc.) have included the language, below*, effectively blocking the use of any IHS funds on housing projects funded by the Native American Housing Assistance and Self-Determination Act or any other grants provided by HUD. If Congress would simply remove this language from all future Indian Health Service appropriations bills, we believe the main problem would be solved. It would seem to be common sense that HUD and IHS funds could be used together to build the best, most efficient houses for our people—those people who are supposed to be the ultimate beneficiaries of both of these important federal grant programs.

Our TDHE housing development staff is beyond tired of having local IHS officials tell them no HIS funds can be spent on NAHASDA-funded housing—particularly since virtually all the new housing at Cheyenne River for the last 25 years has included some amount of NAHASDA money to make the project work. Many times, the local HIS officials don't even know why the prohibition is in place—no one on the ground level is in the habit of reviewing appropriation bills, they just know that headquarters in Washington won't let the funds be used for these projects.

We would appreciate your help, Senator, in making what should be a simple fix to this problem and freeing these funds to do the most good for Indian communities.

Consolidated Appropriations Act, 2022 (H.R. 2471)—DEPARTMENT OF HEALTH AND HUMAN SERVICES INDIAN HEALTH SERVICE—INDIAN HEALTH FACILITIES—Pages 872–873

*Provided further that none of the funds appropriated to the Indian Health Service may be used for sanitation facilities construction for new homes funded with grants by the housing programs of the United States Department of Housing and Urban Development.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BRIAN SCHATZ TO
TIMOTHY HESS

Question 1. How is Department of Transportation working with Native communities to make sure they are getting sufficient technical assistance and access to Infrastructure Investment and Jobs Act (IIJA) resources?

Answer. FHWA developed a publication titled, "Transportation Funding Opportunities for Tribal Nations" (available at https://www.fhwa.dot.gov/infrastructure/transportation_funding_opportunities_for_tribal_nations/). This document provides information to Tribes on new and existing highway and bridge transportation funding programs for which Tribes are eligible. This document outlines the Federal role and assistance, Federal points of contact, how to access funding, and includes comprehensive descriptions of both dedicated Tribal programs and other programs for which Tribes are eligible, such as funding amounts and Federal share. Further, we have heard from Tribes that it can be challenging to collect data to complete a Benefit Cost Analysis as part of a grant/funding application. FHWA's publication notes several funding opportunities that do not require a Benefit Cost Analysis.

FHWA continues to prioritize technical assistance to Tribes, recognizing that the significant resources provided by the Bipartisan Infrastructure Law (BIL) for Tribal infrastructure can only achieve their intended effect if Tribes can take full advantage of these resources. FHWA provides technical assistance to Tribes across multiple offices and delivery models, which will help Tribes take full advantage of these opportunities. In addition, the Department hosted and FHWA participated in a pre-application informational webinar about the Safe Streets and Roads for All (SS4A) Program specifically for Tribal governments in April 2022.

FHWA's Office of Tribal Transportation (OTT) administers the Tribal Transportation Program (TTP) and provides direct funding and technical assistance to approximately 130 Federally recognized Tribes that have signed program agreements with FHWA. The OTT assigns a Tribal Coordinator to each Tribe who is responsible for all stewardship and oversight activities including technical assistance as needed (or requested) to help ensure each Tribe is successful in administering their transportation program and projects. The OTT gives presentations, provides training, and meets one on one with Tribes at approximately 15 Tribal transportation conferences,

workshops, and symposiums across the country each year. The OTT also maintains an online Program Delivery Guide to assist Tribes in every aspect of their transportation program administration and project delivery. The OTT shares news and informs Tribes of transportation-related funding through a national Tribal list-serve. In October 2022, FHWA hosted a webinar to review the fiscal year 2023 TTP Safety Funds notice of funding opportunity for prospective applicants.

With the assistance of FHWA, Tribes are successfully administering their Tribal Transportation Programs under BIL. In fiscal year 2022, FHWA issued nearly \$461 million in Tribal shares from the TTP. Under the TTP Bridge Program, FHWA and the Bureau of Indian Affairs (BIA) approved 49 bridge applications for preliminary engineering and construction projects. These projects received a total of \$41.5 million.

FHWA's three Federal Lands Highway Divisions also provide technical assistance and project delivery services for Tribes in coordination with the OTT.

The FHWA Office of Transportation Workforce Development and Technology Deployment Local Aid Support Team delivers the Tribal component of FHWA's Local Technical Assistance Program (LTAP), the TTAP (Tribal Technical Assistance Program). The TTAP Centers provide Native American and Alaska Native Tribal governments with training, technical assistance, and technology services that best meet the needs of Tribal communities, including on-demand, virtual, and hands-on services that strengthen Tribal capacity for self-governance of transportation programs. In January 2022, FHWA published a notice of funding opportunity (NOFO) announcing the availability of up to \$17.8 million over five years to re-establish and operate seven TTAP centers throughout the country, aligning with the BIA regions. In November 2022, FHWA announced cooperative agreements re-establishing six regional TTAP Centers. A NOFO for the final, seventh TTAP Center was issued in December 2022. These TTAP centers, once fully established, will coordinate valuable training and technical assistance resources with a new emphasis on program management and project delivery.

Other DOT modal administrations also support Tribal transportation programs. For example, NHTSA continues working with BIA to implement the Tribal traffic safety program under 23 U.S.C. 402. NHTSA offered expanded technical assistance such as data deep dive analysis and stakeholder roundtables to help State and Territorial highway safety offices, including BIA, strengthen their programs. NHTSA also appointed Tribal safety program coordinators in each regional office to engage with Tribal communities and encourage State highway safety offices to do the same. In early November 2022, NHTSA supported a Tribal Safety Summit hosted by the Tribal Injury Prevention Resource Center by organizing sessions and providing moderators and speakers.

Question 2. On January 24, 2022, the Federal Highway Administration announced that it will make \$17.8 million dollars available over the next five years to re-establish seven Tribal Technical Assistance Centers across the country. Based on the demand and usage of these centers, is this amount sufficient to meet the technical assistance needs of Tribes? Has the Department heard requests from Tribal leaders for more centers near Native communities?

Answer. FHWA agrees that it is of critical importance to provide technical assistance to Tribes and FHWA has a long history of doing so, including through the TTAP program. The TTAP program is funded as part of FHWA's Training and Education program, which provides a wide variety of services and products. The amount available under the notice of funding opportunity (NOFO), which closed on May 2, 2022, represents a critical investment in TTAP Centers as part of FHWA's Training and Education program. This NOFO announced the re-establishment of seven regional TTAP Centers, aligning with the BIA regions and serving the associated 574 American Indian and Alaska Native Tribal governments. FHWA completed technical evaluations for the applications received in response to the TTAP Center NOFO, and, in November 2022, announced cooperative agreements re-establishing six regional TTAP Centers. FHWA published a separate NOFO to solicit applications for the seventh, Eastern TTAP Center award in December 2022. We look forward to re-establishing TTAP Centers across the country and we will continue to evaluate resource needs for Tribal technical assistance. The TTAP budget is sufficient. Once the TTAP Centers are fully stood up, FHWA will be able to effectively evaluate the demand for Tribal technical assistance. A Federal Register notice was published in August 2020 to inform the direction of the TTAP. This notice requested comments directly from Tribes. Tribal comments received reflected a desire to return to a local delivery model with regional TTAP Centers. The TTAP Center NOFO issued in January 2022 reflects the Tribes' comments and request for locally delivered TTAP services aligned with BIA regions.

Question 3. How is the Department of Transportation supporting Tribal efforts to ensure new surface infrastructure is climate and natural disaster resilient?

Answer. Resiliency is an emphasis area for the Department of Transportation. There are many positive examples of Tribes using Tribal Transportation Program funds and other transportation funds to improve resilience, and the Department will continue to support Tribes in their efforts to make Tribal surface transportation infrastructure resilient, including by providing technical assistance. The increased funding provided by BIL will provide more opportunity for Tribes to increase the resiliency of surface transportation. The BIL created new discretionary grant program opportunities to address resiliency such as the new Promoting Resilient Operations for Transformative, Efficient, and Cost-saving Transportation (PROTECT) discretionary grant program. This program will fund projects relating to resilience, including planning, improvements, community resilience and evacuation routes, and at-risk coastal infrastructure.

FHWA will also be revising our emergency relief manual to support incorporating resilience into emergency relief projects, and to develop best practices for improving the use of resilience in the emergency relief program. Information developed from this effort will be made available for Tribes' use.

FHWA is currently conducting research by applying FHWA's Vulnerability Assessment and Adaptation Framework to selected Tribes' transportation systems to assess their vulnerability to extreme weather and climate effects. The goal of the research is to develop a summary report identifying unique challenges, lessons learned, and recommendations to improve the development of future climate vulnerability assessments of Tribal transportation. Tribes participating in the research are Karuk in CA, Kwigillingok in AK, Mescalero Apache in NM, Oglala Sioux in SD, Coushatta in LA, and Ottawa and Modoc in OK. The research will help the participating Tribes identify, analyze, and prioritize adaptation options, substantively informing their transportation decisions.

Question 4. The IIJA included funding for the Promoting Resilient Operations for Transformative, Efficient, and Cost-saving Transportation (PROTECT) grant program, a new grant program for planning grants to enable communities to assess climate vulnerabilities and improvement grants to protect surface transportation assets. What is the status of the Tribal allocations under this program?

Answer. A notice of funding opportunity will be released for the PROTECT discretionary grant funding to provide guidance and denote selection criteria consistent with BIL. The BIL requires that, of the amounts made available to carry out the PROTECT discretionary grant program for each fiscal year, the Secretary shall use not less than 2 percent for grants to Indian tribes (as defined in 23 U.S.C. 207(m)(1)). FHWA knows how critically important infrastructure funding is to Tribal governments, and we are working to make these funding opportunities available as quickly as possible.

Question 4a. Please provide details on the Department of Transportation's plans for ensuring Tribes have access to this program, any plans to engage in Tribal consultation on the development of this program, and the timeline for deployment of Tribal applications and awards under this program.

Answer. FHWA is providing details on all discretionary and competitive opportunities to Tribes as they are made available. We developed a Tribal Funding brochure, "Transportation Funding Opportunities for Tribal Nations" (available at Transportation Funding Opportunities for Tribal Nations), and current funding information is provided on our website. FHWA distributes details on funding programs and opportunities through our e-mail listserve, to the Tribal Transportation Program Coordinating Committee, at Tribal workshops and conferences, and during on-site visits to Tribal offices. We also provide webinars and consultation opportunities for Tribes.

As noted above, a notice of funding opportunity (NOFO) will be released for the PROTECT discretionary grant funding. FHWA will work to promote the NOFO and will coordinate with FHWA's Office of Tribal Transportation and our Division Offices to ensure the Tribes have the information they need to apply.

Question 5. What is the Department of Transportation doing to ensure Tribal roads are safer for drivers and pedestrians? What programs within the Department can Tribes access to do things like build sidewalks, install guardrails, and improve the safety of their roads?

Answer. Safety is the Department's top priority and we are committed to improving safety and reducing fatalities on roads in Tribal areas. FHWA provides technical assistance, including a Safety Plan Toolkit, to assist Tribes in the development of transportation safety plans. Funding assistance has also been requested by and pro-

vided to more than 75 percent of all Federally recognized Tribes to develop transportation safety plans.

There are several programs that will help make Tribal roads safer. For example, the Tribal Transportation Program Safety Fund (TTPSF) is dedicated to preventing and reducing transportation-related injuries and fatalities on Tribal lands. Funding for the TTPSF more than doubled in BIL, moving from a two percent set-aside from TTP funding to four percent. This increase means that, for fiscal year 2022, up to \$23 million in grant funding is available to Tribes, compared to \$9 million in fiscal year 2021. FHWA announced the TTPSF awards for fiscal year 2021 on May 4, 2022. FHWA announced awards to 51 Tribes, with \$8.9 million awarded for 58 safety projects. FHWA published the fiscal year 2022–2026 TTPSF notice of funding opportunity on June 7, 2022. Applications for the fiscal year 2022 funding were due on September 15, 2022 and FHWA is accepting applications for the fiscal year 2023 funding cycle through January 15, 2023. In addition, Tribes may use their TTP Tribal shares for safety projects.

Safety projects on Tribal lands are also eligible for funding under other programs. For example, the Highway Safety Improvement Program (HSIP) provides resources to achieve a significant reduction in traffic fatalities and serious injuries on all public roads, including roads on Tribal land. The BIL substantially increased HSIP funds. Certain safety projects on Tribal lands, such as Safe Routes to School projects, may also be eligible under the Transportation Alternatives set-aside of the Surface Transportation Block Grant (STBG) Program.

Tribal safety projects may also be funded under various discretionary grant programs. The BIL established the SS4A Program and provided \$5 billion over five years to develop comprehensive safety action plans (CSAP); conduct planning, design, and development activities for projects and activities contained in a CSAP; or to carry out projects and strategies identified in a CSAP. Tribes are eligible to apply for SS4A funds. The Department hosted a pre-solicitation outreach webinar about the SS4A Program specifically for Tribal governments on April 28, 2022. The Department published the notice of funding opportunity (NOFO) for the SS4A Program on May 16, 2022, and anticipates that award selections will be made for the fiscal year 2022 funding round in early 2023. Safety projects may also be eligible under the Rural Surface Transportation Grant Program, established under BIL. Tribal governments are eligible applicants under this program. The Rural Surface Transportation Grant Program was included in the Multimodal Project Discretionary Grant Opportunity (MPDG) NOFO published in March 2022.

In addition to the increased funding opportunities made available by BIL, FHWA is also working in collaboration with the National Highway Traffic Safety Administration (NHTSA) to identify best practices in Tribal crash reporting as required under BIL, to ensure that data surrounding transportation safety in Tribal areas is accurate and comprehensive. In June 2022, NHTSA, in partnership with FHWA, published a Tribal Crash Reporting Toolkit that contains a standardized crash report form for use by Indian tribes and Alaska Native communities, a database to store completed crash report forms, a crash reporting self-assessment tool for Tribes, and several guides to help Tribes implement better crash reporting and analysis (available at <https://www.tribalsafety.org/tribal-crash-reporting-toolkit>). NHTSA also supports Tribal transportation safety in other ways, as described in the response to Question 1, though NHTSA's funds can only be used for behavioral safety projects and not for construction-related projects such as sidewalks or guardrails.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. STEVE DAINES TO
TIMOTHY HESS

Question 1. Under the Infrastructure Investment and Jobs Act, a new Assistant Secretary, Office of Tribal Government Affairs at USDOT was created. What is that office doing to ensure access to these programs are available to Montana tribes?

Answer. The Office of Tribal Government Affairs has worked to engage all of our Tribal partners, including Tribes located in Montana. The Office has hosted a series of engagements such as having the Deputy Assistant Secretary for Tribal Affairs host six Tribal Consultations, two Tribal Roundtables, and the first Tribal Aviation Symposium. At these events, the Department presented on the opportunities created under the Bipartisan Infrastructure Law (BIL).

The Office of Tribal Government Affairs has also worked with our Tribal Organization partners and presented or is planning to present at their conferences on the opportunities under BIL. These Tribal Organizations include the National Congress of American Indians; Inter-Tribal Transportation Association; Self Governance Advisory Committee; and National Transportation in Indian Country Conference. Re-

cently, the Office of Tribal Government Affairs hosted a Tribal Transportation Summit in Albuquerque, New Mexico on October 25–26, 2022. FHWA participated in this Summit. The Summit convened federal and state transportation officials and Tribal leaders to cover federal funding opportunities for infrastructure that are available to Tribes from the Department of Transportation through BIL.

Additionally, Secretary Buttigieg was the speaker at the first Tribal Leader Engagement Session hosted by the White House Council on Native American Affairs (WHCNAA) in January 2022, where all Tribes were invited. In August 2022, Secretary Buttigieg was the keynote speaker for the National Transportation in Indian Country Conference.

To spread the word for these engagements, the Department notifies our Tribal partners via email and keeps Tribal Organizations up to date so they may share the information. The Department also works internally with our Federal partners (such as the WHCNAA, White House Tribal Office of Intergovernmental Affairs, and White House Tribal Domestic Policy Council) and they may spread the information as well.

Lastly, the Office of Tribal Government Affairs will engage and or consult with any Tribe that requests.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BRIAN SCHATZ TO
GARRET YOSHIMI

Question 1. Will the Tribal Broadband Connectivity Program funds boost the impact of the Bridging Equity, Access, & Deployment (BEAD) and Middle Mile programs funds for Native Hawaiian communities? Is the state planning to use those funds for digital and undersea cables?

Answer. Hawai'i is committed to fully leveraging the combined investment from the collection of federal broadband connectivity and adoption funding programs, including the Tribal Broadband Connectivity (TBC) Program, the Bridging Equity, Access and Deployment (BEAD) Program and the Middle Mile Broadband Infrastructure Grant (MMG) Program, to maximally benefit all of Hawai'i's residents, including our Native Hawaiian communities. Coordination of our efforts across these programs will allow us to deliver benefits to support the program-designated areas of need and, in the case of the TBC, provide direct focus on benefits to our Native Hawaiian communities. We are working with the Department of Hawaiian Homelands (DHHL) to support their efforts directly serving our Native Hawaiian communities and to coordinate cross-program benefits through efficient sharing of capacity and gaining economies of scale. For example, while we need to watch for duplication of efforts, the layering of statewide digital literacy efforts together with the DHHL programs directly focused on benefitting our Native Hawaiian communities will definitely boost the impact of the collection of broadband programs.

Planning for the specific projects is well underway, with expected investment in submarine and terrestrial middle mile cables from the U.S. Treasury Coronavirus Capital Projects Fund (CCPF), MMG, BEAD and TBC programs. We are also working to potentially leverage private sector capital funds to extend the benefit of the public investments, and we are utilizing Coronavirus State and Local Fiscal Recovery Funds (CSLFRF) from the American Rescue Plan Act (ARPA) to support our work. We recently entered into an agreement to conduct cable landing station site surveys and complete inter-island submarine cable system design desktop study, with field work to be completed in June, and final reports due later this summer, funded by CSLFRF. CSLFRF will also be used, at least in part, as the required matching funds for the state's BEAD investments.

Hawai'i's coordinated approach to making these strategic broadband investments will provide direct and substantial benefits to our Native Hawaiian communities, including robust and more reliable broadband, and widespread digital literacy as a result of these efforts. Our approach emphasizes the critical need to include community-based wrap-around services addressing digital equity and literacy needs to ensure broad adoption and use of broadband services. The balanced investment in human and technological infrastructure will help guarantee that our Native Hawaiian communities will substantially benefit from this once-in-a-lifetime public investment.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BEN RAY LUJÁN TO
TIMOTHY HESS

Tribal engagement

The passage of the Infrastructure Investment and Jobs Act was a once in a generation opportunity to address the critical infrastructure needs of this country. An important mission of that legislation was to deliver much needed resources to historically underserved communities that have for too long faced extreme difficulties in accessing these important funds.

However, Tribal communities continue to face difficulties in navigating the application process. They also face challenges regarding cost share responsibilities, late access to application information and the increased burden and staffing resources needed to apply for funds.

The Bipartisan Infrastructure Law elevated the Tribal Government Affairs leadership to the rank of Assistant Secretary within the U.S. Department of Transportation and the created the Office of Tribal Government Affairs. However, I continue to hear from Tribes and Pueblos in my state that they have not any outreach from the Department of Transportation. This lack of engagement results in Tribes having less access to infrastructure funding despite dire needs.

Question 1. Mr. Hess, how is technical assistance being provided in a proactive manner with advance notice of funding opportunities, so that Tribes have enough time to apply?

Answer. FHWA developed a publication titled, “Transportation Funding Opportunities for Tribal Nations” (available at [Transportation Funding Opportunities for Tribal Nations](#)). This document provides information to Tribes on new and existing highway and bridge transportation funding programs for which Tribes are eligible. This document outlines the Federal role and assistance, Federal points of contact, how to access funding, and includes comprehensive descriptions of both dedicated Tribal programs and other programs for which Tribes are eligible, such as funding amounts and Federal share. Further, we have heard from Tribes that it can be challenging to collect data to complete a Benefit Cost Analysis as part of a grant/funding application. FHWA’s publication notes several funding opportunities that do not require a Benefit Cost Analysis.

FHWA continues to prioritize technical assistance to Tribes, recognizing that the significant resources provided by the Bipartisan Infrastructure Law (BIL) for Tribal infrastructure can only achieve their intended effect if Tribes can take full advantage of these resources. FHWA provides technical assistance to Tribes across multiple offices and delivery models, which will help Tribes take full advantage of these opportunities. In addition, the Department hosted and FHWA participated in a pre-application informational webinar about the Safe Streets and Roads for All (SS4A) Program specifically for Tribal governments in April 2022.

FHWA’s Office of Tribal Transportation (OTT) administers the Tribal Transportation Program (TTP) and provides direct funding and technical assistance to approximately 130 Federally recognized Tribes that have signed program agreements with FHWA. The OTT assigns a Tribal Coordinator to each Tribe who is responsible for all stewardship and oversight activities including technical assistance as needed (or requested) to help ensure each Tribe is successful in administering their transportation program and projects. The OTT gives presentations, provides training, and meets one on one with Tribes at approximately 15 Tribal transportation conferences, workshops, and symposiums across the country each year. The OTT also maintains an online Program Delivery Guide to assist Tribes in every aspect of their transportation program administration and project delivery. The OTT shares news and informs Tribes of transportation-related funding through a national Tribal list-serve. In October 2022, FHWA hosted a webinar to review the fiscal year (FY) 2023 TTP Safety Funds notice of funding opportunity for prospective applicants.

With the assistance of FHWA, Tribes are successfully administering their Tribal Transportation Programs under BIL. In FY 2022, FHWA issued nearly \$461 million in Tribal shares from the TTP. Under the TTP Bridge Program FHWA and the Bureau of Indian Affairs (BIA) approved 49 bridge applications for preliminary engineering and construction projects. These projects received a total of \$41.5 million.

Following up on our discussion at the hearing, the week of October 31st, 2022, I met with six Pueblos in New Mexico: Pueblo of Zuni, Ramah Navajo, Pueblo of Jemez, Pueblo of Acoma, Pueblo of Sandia, and Pueblo of Isleta. The purpose of these visits was to meet one on one with the Pueblos, to discuss Tribal transportation challenges, to promote the “Transportation Funding Opportunities for Tribal Nations” brochure and to encourage Tribes to maximize the BIL opportunities through discretionary grants. I also met with the FHWA New Mexico Federal-aid division to discuss BIL implementation for Tribes.

FHWA's three Federal Lands Highway Divisions also provide technical assistance and project delivery services for Tribes in coordination with the OTT.

The FHWA Office of Transportation Workforce Development and Technology Deployment Local Aid Support Team delivers the Tribal component of FHWA's Local Technical Assistance Program (LTAP), the TTAP (Tribal Technical Assistance Program). The TTAP Centers provide Native American and Alaska Native Tribal governments with training, technical assistance, and technology services that best meet the needs of Tribal communities, including on-demand, virtual, and hands-on services that strengthen Tribal capacity for self-governance of transportation programs. In January 2022, FHWA published a notice of funding opportunity (NOFO) announcing the availability of up to \$17.8 million over five years to re-establish and operate seven TTAP centers throughout the country, aligning with the BIA regions. FHWA completed technical evaluations for the applications received in response to the TTAP Center NOFO, and in November 2022, announced cooperative agreements re-establishing six regional TTAP Centers. These TTAP centers include the Southwestern TTAP Center which serves the Navajo and Southwest BIA regions in the States of New Mexico, Colorado, and Arizona. FHWA published a separate NOFO to solicit applications for the seventh, Eastern TTAP Center award in December 2022. These TTAP centers, once fully established, will coordinate valuable training and technical assistance resources with a new emphasis on program management and project delivery.

Despite the historic investment in bridge infrastructure, Bipartisan Infrastructure Law funding is not sufficient nor timely enough to fix all bridges in poor condition on Tribal lands. When you don't repair these bridges in a timely manner, it becomes more expensive to fix them.

I know from experience that the lack of coordination between federal, state and Tribal agencies can hinder project completion. For example, the New Mexico Manuelito Bridge Groundbreaking Ceremony in September 2021 on the Navajo Nation capped off an over decade-long journey to repair and replace a bridge that was washed out in 2010. It took me bringing together federal, state and Tribal stakeholders before the FEMA funding was set to expire to make sure funding deadlines were met. The Manuelito bridge is an excellent case study in the coordination challenges that Tribes and agencies face to get basic infrastructure projects completed in time.

Question 2. Mr. Hess, how will the Federal Highway Administration work with other federal agencies, states, and Tribes to ensure Bipartisan Infrastructure Law projects, such as programs for highways and bridges, are completed in a timely manner.

Answer. The FHWA has a long-standing history of working with BIA through the joint administration of the TTP. The success of the joint administration of the TTP is facilitated through close coordination, constant communication, and a mutual professional respect between FHWA and BIA staff. This partnership continues to be critical with the passage of BIL and the development of new implementation policy and guidance.

The FHWA and BIA are working together to ensure Tribes are aware of funding opportunities made available by BIL, for example, the significantly increased funding made available for the Tribal Transportation Facility Bridge Program (TTBP). The FHWA identified all TTP bridges classified in poor condition in the National Bridge Inventory and, together with the BIA, is providing technical assistance to Tribes in developing TTBP applications to proactively advance bridge projects. To implement section 14003 of BIL, addressing programmatic agreements for Tribal categorical exclusions, FHWA is also working with the BIA to develop a template for programmatic agreements for categorical exclusions that can be adapted for use by individual Tribes. These actions are examples of how FHWA is working to accelerate infrastructure completion timelines.

The FHWA has program agreements with approximately 130 Federally recognized Tribes. The FHWA recognizes Tribes as sovereign nations and as such provides technical assistance and capacity building in support of Tribal self-determination. FHWA program agreement Tribes administer their individual Tribal Transportation Programs and are responsible for most project activities except for those inherently federal. FHWA program agreement Tribes identify, prioritize, schedule, manage, and construct their own projects. The FHWA's role is to provide stewardship and oversight to Tribes for pre-existing and BIL related programs and FHWA does so across multiple offices and delivery models. In addition to providing technical assistance in advance of funding opportunities, the Offices discussed in the response to Question 1 also provide technical assistance and informational resources to advance project delivery.

In addition, FHWA has Federal-Aid Division Offices in every State. While the Federal-Aid Division Offices primarily provide stewardship and oversight to State Departments of Transportation (DOT), they assist State DOTs in project and programmatic consultation with Tribes. They also, in coordination with the OTT, work with State DOTs and Tribes to overcome challenges that could affect timely project completion.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BRIAN SCHATZ TO
WIZIPAN GARRIOTT

Question 1. In 2018, the Bureau of Indian Affairs (BIA) conducted a road maintenance needs survey. That survey determined that an estimated value for deferred road maintenance was \$498 million. To the Committee's knowledge, the BIA has not conducted any subsequent surveys on this matter. Does the BIA plan to conduct another road maintenance survey to get a new estimate for deferred road maintenance needs? If so, when will the new survey be released?

Answer. It is important to note that the 2018 survey included not only BIA roads, but Tribal, state and county and other Federal land management agency roads within each particular jurisdiction. No subsequent surveys on all deferred maintenance have been conducted since the 2018 survey.

The BIA regularly assesses the deferred maintenance costs and provides an annual report each fiscal year based on regular condition assessments on BIA roads only. The FY 2021 reported deferred maintenance for BIA roads is \$400.1 million.

The Bipartisan Infrastructure Law (BIL) requires the BIA to perform a study, in consultation with the Federal Highway Administration, and in consultation with Tribes to evaluate—

1. The long-term viability and useful life of existing roads on Indian land;
2. Any steps necessary to achieve the goal of addressing the deferred maintenance backlog of existing roads on Indian land;
3. Programmatic reforms and performance enhancements necessary to achieve the goal of restructuring and streamlining road maintenance programs on existing or future roads located on Indian land; and
4. Recommendations on how to implement efforts to coordinate with States, counties, municipalities, and other units of local government to maintain roads on Indian land. BIA is in the beginning stages of carrying out the BIL required survey and plans to complete the survey by November 2023.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. STEVE DAINES TO
WIZIPAN GARRIOTT

Question 1. Montana tribes do not have the same capability to compete for grants that states such as New York and California have. What is DOI doing to assist tribes in rural states like Montana to ensure fair access to grants?

Answer. The Department, consistent with the Administration's commitment to engage in meaningful consultation with Tribal governments, engages regularly with Indian Tribes in the administration of funding opportunities available to Tribal governments. Regular and meaningful Tribal consultation serves a dual purpose to both inform and elevate awareness among Tribal governments about funding opportunities, but also to receive comments and insight on how funding opportunities and programs can be implemented in a manner which best serves Indian Country and the communities intended to be impacted by the policies or programs which are the subject of the consultation.

Furthermore, the White House Council on Native American Affairs (WHCNAA), housed within the Department of the Interior, as part of its core duties regularly collaborates with other Federal agencies across the Executive Branch to ensure that funding streams available to Tribal governments are accessible—this includes coordination on grants and similar opportunities that are not exclusively offered to Tribal governments. The WHCNAA is comprised of six committees, including Climate Change, Tribal Homelands, and Treaties; Health; Education; Economic Development, Energy, and Infrastructure; Public Safety and Justice; and International Indigenous Issues. The WHCNAA convenes the principals, i.e., the Cabinet-level officials, at least three times a year to collaborate on the Administration's priorities and to ensure that Tribal governments have equitable access to all funding streams, grants, and opportunities which are available through the federal government.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BEN RAY LUJÁN TO
WIZIPAN GARRIOTT

Indian irrigation report and funding

In 2009, Senator Jeff Bingaman worked to include the Rio Grande Pueblos Irrigation Infrastructure Act (RGPIIA) in the Omnibus Public Lands package that President Obama signed into law.

The RGPIIA directed the Interior Department, in consultation with the Pueblos of the Rio Grande Basin, to: study the Pueblo irrigation infrastructure; develop a list of projects (including a cost estimate for each project) that are recommended to be implemented over a 10-year period to repair, rehabilitate, or reconstruct Pueblo irrigation infrastructure; and implement projects to rehabilitate and improve the irrigation infrastructure.

The RGPIIA required the Interior Department to complete the study no later than 2 years from enactment of the law. However, no federal funding was appropriated to conduct the study until 2012. As a result, the study was significantly delayed.

As Chairman Mitchell notes in his testimony, in 2017 this report entitled “Irrigation Infrastructure Report for the Rio Grande Pueblos” was finalized. It identified nearly \$280 million of irrigation improvements needed on Pueblo lands. However, this report still sits unsigned at the Department of the Interior. Pueblos in New Mexico have been waiting on the final issuance this federal report on Indian irrigation projects for a decade.

Question 1. Mr. Garriott, when will Secretary Haaland sign this report and Interior publicly release it?

Answer. On June 4, 2022, the report was transmitted to Congress. This constitutes finalization of the initial study report required by the Rio Grande Pueblos Irrigation Infrastructure Act and the report was provided electronically to representatives of the 18 Pueblos within the Rio Grande Basin on June 9, 2022.

In the BIA’s Bipartisan Infrastructure Law (BIL) initial spend plan, \$7 million per year is reserved for Indian Irrigation Projects. This funding will help address the country’s backlog of operation and maintenance needs for Indian Irrigation Projects, which continues to grow because of inflation and a lack of necessary funding. In many instances deferred maintenance needs also include improving worker safety in and around Indian Irrigation projects and funding necessary to bring these projects up to modern safety codes.

However, more funding is needed. In New Mexico, for example, the Navajo Indian Irrigation Project (NIIP) is in need of critical maintenance with costs far exceeding \$7 million. A 2016 Engineering Evaluation and Condition Assessment report conducted by the BIA identified over \$175 million in remediation costs resulting from an extensive deferred federal maintenance backlog for the NIIP.

As part of the BIL, there is significant funding provided to the Bureau of Reclamation to support water infrastructure projects, including \$3 billion under the aging infrastructure program. One section of the aging infrastructure program specifically provides for “resolving significant reserved and transferred works failures that occurred in the last two years in a way that prevented delivery of water for irrigation.” However, while this and other issues listed under the aging infrastructure program affect Indian Irrigation Projects, such projects are not eligible for BOR funding from the BIL at this time.

Question 2. Mr. Garriott, will the Department of Interior and Bureau of Reclamation allow Indian Irrigation Projects to be eligible to apply for BIL funding provided to Reclamation, including the \$3 billion allocated to the aging infrastructure program? If not, why?

Answer. Tribes are eligible to apply for a large number of Reclamation’s BIL funding opportunities regardless of Indian irrigation project ownership status. Eligible Tribal funding opportunities include but are not limited to: the competitive grant program for Small Water Storage and Groundwater Storage Projects (BIL section 40903), the competitive grant program for Multi-Benefit Projects to Improve Watershed Health (BIL section 40907), and the Federal Assistance for Groundwater Recharge, Aquifer Storage, and Water Source Substitution Projects (BIL section 40910). Other BIL funding must be used on Reclamation-owned infrastructure, including the BIL’s \$3 billion authorized for Aging Infrastructure (BIL sections 40901(2), 40904).

Question 3. Mr. Garriott, will the Department of Interior and Bureau of Reclamation allow Indian Irrigation projects to be eligible to apply for funding in the Dam and Water Projects program of the BIL? If not, why?

Answer. If the question is referring to the BIL section 40901(6)’s \$500 million authorized for the Reclamation dam safety program, then it is required by statute for

use on Reclamation-owned dams in accordance with the Reclamation Safety of Dams Act of 1978 (43 U.S.C. 506 et. seq.). As such, unless the Indian Irrigation Project includes a Reclamation-owned dam, it would not be eligible. While Tribally owned irrigation projects may not be eligible for Reclamation's dam funds, Tribally owned dams may be eligible for the BIL's appropriations for the BIA Safety of Dams program (BIL Division J, Title VI, Indian Affairs).

If the question is referring to Section 40902—Water Storage, Groundwater Storage, and Conveyance Projects—then any Tribal storage or conveyance project (1) authorized by an act of Congress prior to the BIL enactment and (2) Congress approved funding for the feasibility study or construction in accordance with section 4007 of the Water Infrastructure Improvements for the Nation Act (43 U.S.C. 390b note; Public Law 114–322) prior to the BIL enactment, would be eligible for funding with a non-federal cost share of at least 50 percent.

Question 4. Mr. Garriott, if the answers to questions 2 and 3 are no, how do you plan to fund critical maintenance needs for Tribal irrigation projects?

Answer. Reclamation is actively working to support Tribes in seeking additional funding opportunities to address Tribal irrigation infrastructure needs—this includes Reclamation's Native American Technical Assistance Program as well as the WaterSMART program. Specifically for the Pueblos of the Rio Grande Basin, this includes coordination and technical assistance for collaboration, partnering, and funding with the U.S. Army Corps of Engineers Acequias Program, Natural Resources Conservation Service Environmental Quality Incentives Program, and the State of New Mexico, in addition to Reclamation's programs and funding. Additionally, BIA receives critical maintenance and rehabilitation appropriations for its 17 BIA-owned irrigation projects under three separate authorities:

1. Irrigation Projects-Rehabilitation, 25 U.S.C. Chapter 11 (§§ 381–390)—Irrigation of Allotted Lands.
2. Public Law 114–322, Water Infrastructure Improvements for the Nation Act, Title III, Subtitle B, Parts I & II, as amended; and
3. Public Law 117–58, Infrastructure Investment and Jobs Act (BIL); Division J Appropriations, Title VI—Department of the Interior, Environment, and Related Agencies.

The above BIA rehabilitation funding is distributed among its 17 irrigation projects pursuant to each authorization's eligibility and prioritization requirements and the Department's spending plan reports submitted to Congress. In general, BIA distributes funds to activities that reduce the risk of failure, reduce deferred maintenance, and align with BIA's technical studies. BIA aims to prioritize the most critical infrastructure needs at all 17 BIA-owned irrigation projects.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BRIAN SCHATZ TO
ELIZABETH FOWLER

Question 1. What is the current staff vacancy rate within the IHS Sanitation Facilities Construction Program (SFCP)? Will the increased funding provided for SFCP projects by the IIJA require additional staff resources to ensure timely deployment? If so, please provide additional information on these staffing needs.

Answer. Based on an April 2022 survey of the SFCP there are over 143 federal staff vacancies across multiple job series including vacancies for engineers, technicians, inspectors, administrative support, surveyors, and geospatial information systems analysts. These vacancies represented a vacancy rate of 27 percent across the SFC Program. In April 2022, the IHS estimated that in addition to filling 143 existing vacancies within the SFCP there would be a need for additional staff to support the increased work associated with the increased levels of funding from the Infrastructure Investment and Jobs Act. Without these staff, the project completion time would potentially increase beyond the IHS' current project duration of 3.6 years.

Question 2. My understanding is that RPMS, the current Indian Health Service (IHS) electronic health record system, is over 50 years old. How does the age of this system affect the ability of the Service to expand telehealth and modernize patient care?

Answer. Although the origins of the Resource and Patient Management System (RPMS) were decades ago as noted, the system has been continuously updated over the years to adapt to changes in health care practice, statutory and regulatory requirements, data and terminology standards, and technology advances, to the extent possible. That said, the age, underlying technology, and deployment model of RPMS

constrain its ability to support telehealth and overall patient care in numerous ways, such as:

- RPMS does not support the full functionalities of tablets and other mobile devices. This imposes substantial constraints on the usability of RPMS for clinicians whether they are in the facility (on a hospital floor or Emergency Department), or remote (e.g., after hours or providing telehealth services from home).
- RPMS does not integrate with modern telehealth platforms. Telehealth is an important component of care in Indian Country, but data sharing between the telehealth modality and RPMS does not occur at present. This limitation affects patient scheduling, messaging, and transmitting patient-generated data such as measurements and images.
- RPMS uses a distributed deployment model, and each federal Service Unit, tribe, or urban Indian organization that uses RPMS has a unique instance of the system. True interoperability between distinct RPMS databases does not exist. This creates significant challenges for care coordination as well as the ability for consulting specialists to provide services to multiple sites.
- The internally-developed patient portal used with RPMS has numerous limitations relating to patient scheduling, medication management, care team messaging and notifications, and device compatibility.

The above are a subset of issues specific to the above question that relate to the outdated technology, development, and support models on which RPMS is dependent. It is primarily for these reasons that the IHS has embarked on the multi-year Health Information Technology Modernization initiative with which the Committee members are familiar.

Question 3. How is the IHS working with other federal agencies, like the National Telecommunications and Information Administration, to make sure federal broadband investments are expanding telehealth access in Native communities?

Answer. Telehealth expansion is vital to support access to care to the American Indian and Alaska Native population during the pandemic's public health emergency (PHE) and afterwards. Many American Indians and Alaska Natives live in rural areas, and the realities of the digital divide are apparent when providing care utilizing telehealth because of poor connectivity and bandwidth, and the limited availability of smart devices in the communities the Indian Health Service (IHS) serves. Throughout the PHE, a majority of virtual care at IHS has been via telephone/audio-only (i.e. approximately 80 percent of telehealth visit use audio only).

The IHS works with other departments and agencies across the Federal Government to support telehealth expansion and identify broadband investments available to help Native communities. The IHS has actively participated in the HHS Telehealth Workgroup, where federal agencies address waivers and flexibilities, broadband needs, and federal policies that should be revised/updated to support telehealth expansion.

The IHS collaborates with the Department of Commerce, National Telecommunications and Information Administration (NTIA). As of April 2022, the IHS began participating in biweekly meetings with the Federal Communications Commission and the NTIA. These meetings provide valuable information/updates on the work taking place to improve rural broadband access and expand broadband connection in rural areas.

The NTIA reported receiving approximately three billion dollars in funding from the Infrastructure Investment and Jobs Act (IIJA), the Coronavirus Response and Relief Supplemental Appropriations Act, and the Consolidated Appropriations Act, 2021, P.L. 116–260. These funds will support tribal broadband, including infrastructure and telehealth.

With the designated funding, NTIA is developing the Tribal Broadband Connectivity Program (TBCP), a \$1 billion program directed to tribal governments to be used for broadband deployment on tribal lands.¹

NTIA released resource information on funding opportunities in the launching of Internet for All and informed IHS about three Notices of Funding Opportunity:

- Broadband Equity, Access, and Deployment (BEAD) Program (\$42.5 billion);
- Enabling Middle Mile Broadband Infrastructure Program (\$1 billion); and,
- State Digital Equity Act programs (\$1.5 billion).

Also, NTIA shared with IHS that Tribal broadband planning toolkit resources are available:

¹More information available at <https://broadbandusa.ntia.doc.gov/resources/tribal-nations>.

- Information about Tribal broadband planning toolkit, available at <https://broadbandusa.ntia.doc.gov/news/latest-news/introducing-tribal-broadband-planning-toolkit>
- Tribal Broadband Planning Toolkit, available at https://broadbandusa.ntia.doc.gov/sites/default/files/2022-05/Tribal%20Broadband%20Planning%20Toolkit%20%28PDF%29_1.pdf.

The IHS has conveyed this information about Internet for All and Tribal Broadband Planning Toolkit at internal IHS leadership meetings. This information was also shared in the Acting Director's IHS Week in Review (week of June 12, 2022) In terms of additional collaboration with other agencies, the IHS informally meets weekly with Federal telehealth subject matter experts from across HHS to share the various telehealth work taking place and resources available.

Question 4. The American Rescue Plan Act (ARPA) temporarily authorized 100 percent federal medical assistance percentage (FMAP) for urban Indian organization (UIOs) and Native Hawaiian health centers. The Committee has heard that some UIOs are encountering difficulties working with states on implementation of this provision. In light of the Department of Health and Human Services' (HHS) federal trust responsibilities, what roles are the IHS and the HHS taking to support improved cooperation between states and UIOs for implementation of this authority?

Answer. The ARPA provision you are asking about temporarily changes the federal medical assistance percentage that states receive for Medicaid medical assistance expenditures for services received through UIOs. The provision is silent about the payment rates states opt to pay to UIOs. States have the discretion to set and adjust Medicaid provider payment rates, consistent with section 1902(a)(30)(A) of the Social Security Act, as long as the state payment rates are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under the Medicaid state plan at least to the extent that such care and services are available to the general population in the geographic area. In an August 30, 2021 State Health Official Letter, CMS offered to provide technical assistance to states that believe adjusting their reimbursement rates for UIOs is appropriate. See <https://www.medicaid.gov/federal-policy-guidance/downloads/sho-21-004.pdf>.

Question 5. The Committee has heard from several UIOs about delayed ARPA funds. Is it accurate that some UIOs have been waiting over a year to receive their ARPA funds? If so, please explain why these delays have occurred, and provide an estimate of when IHS will release these delayed funds to their respective UIOs.

Answer. The IHS has distributed ARPA funds to 80 percent of UIOs. There have been delays in obligating construction-related funding due to the time needed for the Agency to review the authorities under Coronavirus Response and Relief Supplemental Appropriations Act (CRRSAA), American Rescue Plan Act (ARPA), and the Infrastructure Investment and Jobs Act (IIJA) to ensure construction-related activities are consistent with the purposes of each funding source. On November 15, 2021, the IIJA amended the IHClA provision at 25 U.S.C. § 1659; and construction-related activities are no longer required to be solely for the purpose of meeting or maintaining The Joint Commission standards. The IHS Areas and UIOs will continue to finalize construction proposals for contract awards.

Other UIOs have not submitted scopes of work and budgets to finalize proposals to obligate ARPA funds. The IHS provided guidance and technical assistance to UIOs on submitting proposals and will continue to work with UIOs to finalize proposals for contract awards.

Question 6. The Infrastructure Investment and Jobs Act (IIJA) allows UIOs to utilize their existing contracts to upgrade their aging facilities and make much-needed facilities upgrades to address gaps that COVID-19 exacerbated. Has the IHS fully implemented this new authority? What steps has the Service taken to ensure UIOs can fully utilize this new authority?

Answer. The IHS has fully implemented this new authority, and UIOs were informed during the monthly Urban Program Executive Directors/Chief Executive Officers call. A Dear Urban Indian Organization Leader letter was issued on April 4, 2022 that provided further information about the amended law.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. STEVE DAINES TO
ELIZABETH FOWLER

Question 1. Montana tribes are in a housing crisis. At Fort Belknap, there has not been a new home since the mid-1990s, 12-18 people live in multi-generational two- or three-bedroom housing, and the housing waitlists are hundreds of families

and years-long. It is my understanding that Montana tribes have had difficulty in using federally appropriated funds due to a restriction that says HUD and IHS dollars cannot be spent on the same project. Currently, HUD funds above-ground construction and IHS funds below-ground water and sewer. How is IHS working with HUD to overcome this issue?

Answer. When new homes are constructed or existing homes renovated, necessary sanitation facilities should be part of that development and funded by the same source providing the funds for the construction or renovation of the homes. Native American Housing Assistance and Self-Determination Act (NAHASDA) created the Indian Housing Block Grant (IHBG) Program, the Title VI Loan Guarantee Program, as well as some programs for Native Hawaiians. The IHBG program enables federally recognized Tribes and tribally-designated housing entities (TDHE), as well as a limited number of state recognized tribes with formula block grant funds for a variety of affordable housing activities, including acquisition, new construction, reconstruction, or substantial rehabilitation, and related housing services, such as energy audits and housing management services. Title VI provides Federal guarantees on private market loans to develop affordable housing for federally recognized Tribes and TDHEs. It is IHS' understanding that the guarantees may be used on loans for constructing new housing, rehabilitating housing, building infrastructure, constructing community facilities, acquiring land for housing and similar purposes. The Department of Housing and Urban Development (HUD) is responsible for ensuring Tribes and TDHEs are aware that when developing or renovating housing, that IHBG or Title VI funds should be used to construct or improve needed sanitation facilities.

Prior to 1982, IHS did provide funding for sanitation facilities for newly-constructed HUD homes. After that time, Congress began to appropriate these funds to HUD's Indian housing program, and IHS was statutorily precluded from funding this type of facility. Since 1982, Congress has repeatedly expressed this intent in appropriation bill and report language. As stated in prior year appropriations and again in the FY 2022 Consolidated Appropriations Act: "None of the funds appropriated to the Indian Health Service may be used for sanitation facilities construction for new homes funded with grants by the housing programs of the United States Department of Housing and Urban Development."⁹ Prior to the implementation of NAHASDA in 1996, tribal housing authorities would transfer the HUD funds identified for sanitation infrastructure to the IHS and IHS would use those funds to construct sanitation facilities to support the new HUD homes. However, since 1996, this transfer of funds to IHS stopped.

Any changes to the appropriation language that would allow IHS to use Sanitation Facilities Construction (SFC) appropriated funds to support new HUD homes will reduce SFC funds available to address the purpose of P.L. 86-121.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BRIAN SCHATZ TO
ADAM GEISLER

Question 1. At the hearing, I inquired about the status of the Department of Hawaiian Home Lands (DHHL) August 31, 2021, Tribal broadband connectivity program application and expressed my concern that the National Telecommunications and Information Administration (NTIA) still had not issued these funds to DHHL—despite clear Congressional intent regarding the three percent DHHL set-aside. My question remains unanswered. Why has NTIA not yet issued the statutorily mandated set-aside funding reserved for DHHL?

Answer. NTIA acknowledges that DHHL, as the eligible entity on behalf of Native Hawaiians, has a statutory allocation of not less than 3 percent of the funds appropriated to the TBCP program to made available to the DHHL upon completion of a successful application which meets the requirements outlined in the both the NOFO and Department of Commerce Grant Guidance. The opportunity to cure an application can occur at any stage of review (initial review, merit review, or programmatic review). When applications are submitted that are incomplete or otherwise deficient, NTIA will work with the applicant to cure the application based upon the phase of review for which the need for further curing was identified. This process can be quick or time-consuming, depending on the extent of the problems and the applicant's willingness and ability to address them. NTIA is continuing to work with applicants, including DHHL, to resolve outstanding deficiencies that need further curing.

Question 1a. How can NTIA, DHHL, and my office work together to ensure the same issues won't happen when it comes to issuing Infrastructure Investment and Jobs Act (IIJA) funds to DHHL?

Answer. NTIA is committed to providing technical assistance to applicants. NTIA is focused on working with the applicant and its team to provide technical assistance during future funding opportunity announcements. I believe this will resolve the issues experienced with the prior application. We welcome the opportunity to continue to engage with your office as this technical assistance is offered.

Question 2. Your written testimony states that over 450 Tribal governments applied for the Tribal broadband connectivity program grants. Please clarify—does this number represent the total number of applications from Tribal governments NTIA received for the first tranche of the program funding (i.e., the funding provided by the Consolidated Appropriations Act of 2021)?

Answer. NTIA received 253 applications directly from Tribal governments in response to the Notice of Funding Opportunity (NOFO) issued for the funding provided by the Consolidated Appropriations Act of 2021. The number represented during the hearing addressed both individual tribal government applicants and those identified in consortium applications.

Question 2a. How many total applications did the NTIA receive from all eligible applicants? Please provide the total number of applications and disaggregate your response to show the number of applications by eligibility category.

Answer. NTIA received 299 applications from eligible applicants to the TBCP program: 253 directly from Tribal Governments, 27 from Tribal Organizations, 15 from Alaskan Native Corporations, 3 from Tribal Colleges, and one from a State Government. Through these 299 applications, which include both individual tribal government as well as consortium applications, 450 Tribal governments are represented by the 299 applications for TBCP grants.

Question 2b. Of those qualifying applications submitted, how many applications was the NTIA able to fund?

Answer. Because NTIA is still evaluating applications, engaged in the curing process, and addressing duplication, we are unable to give a final number regarding applicants receiving awards at this time.

Question 2c. How many applications for grant funding were initially denied due to deficiencies in the entity's application materials?

Answer. NTIA had two applicants that were found to be ineligible during the initial review of Tribal Broadband Connectivity Program (TBCP) applications and thus denied from further consideration.

Question 2d. If an application was denied, how was that information communicated to the applicant? What were the typical defects?

Answer. NTIA has only removed from consideration two applicants from consideration based upon their failure to meet the eligibility requirements. No applicants have received formal denial of their application as the Department of Commerce grant guidance requires all awards to be made prior to notification to unsuccessful or ineligible applicants. Four applicants provided confirmation to NTIA that they were withdrawing their applications during programmatic review. Applications have various deficiencies that result in denial. Denial to the TBCP program may include but is not limited to failure to be responsive during curing, or failure to meet program priorities outlined in the NOFO during the initial, merit, and or programmatic review phase.

Question 2e. Of the applications denied after their first submission, how many were subsequently cured?

Answer. NTIA is still reviewing applications. No applicants have been notified of denial at this time. NTIA is currently working with applicants to cure applications that required curing. Applicants will have an opportunity to compete under a second NOFO which will be released this fall.

Question 2f. Please describe the technical assistance NTIA provided to applicants who received a notice of denial.

Answer. No applicants have been notified of denial at this time.

Question 3. You testified that NTIA has disbursed approximately \$83 million of the funding provided for the Tribal broadband connectivity program under the Consolidated Appropriations Act of 2021. You also testified that NTIA expects the remaining round-one distributions to be completed by late spring. Can Congress expect the remaining 92 percent of funds to be distributed in the next few weeks? If not, what is the timeline for awarding these remaining funds?

Answer. The grant announcement timeline has been adjusted given additional amendments to program funding under IIJA; Build America, Buy America provisions and waiver considerations requiring OMB approvals; statutorily required curing; and the need for further consultation with Tribes regarding how best to treat the additional funding appropriated under IIJA in an equitable manner. As of Sep-

tember 22, 2022, NTIA has now made a total of 70 awards totaling \$755,737,402.24 from the initial round of funding under the June 3 TBCP Notice of Funding Opportunity (NOFO). NTIA will continue to announce additional awards on a rolling basis as they move through NTIA's review process.

Question 4. Where in the process is NTIA with respect to distributing Tribal broadband connectivity program funds provided under Infrastructure Investment and Jobs Act (IIJA)? And, what is the timeline for completing the application and award phases for these funds?

Answer. Given the volume of requests submitted in response to the June 2021 TBCP NOFO and the significant need to quickly expand high-speed Internet service on Tribal lands, NTIA announced on August 9, 2022, that it had added \$1 billion from the IIJA to the current TBCP funding period, which closed September 1, 2022, increasing the total available for high-speed Internet grants as part of that notice to \$1.96 billion. In a letter, NTIA has alerted Tribal entities who applied in June 2021 that there is no action required on their part and NTIA will continue to announce additional awards on a rolling basis as they move through NTIA's review process. The additional IIJA funding added to the TBCP round one will ensure a portion of the IIJA funding reaches eligible applicants faster and reduces the burden on applicants to apply in a second NOFO but does, however, increase the amount of time to conduct application review and curing as well as when we are permitted to notify unsuccessful applicants.

An additional NOFO will be released this fall to solicit applications for the remaining IIJA TBCP funding. For Tribes who did not participate in the Round One NOFO, this will offer them an additional opportunity to apply for funding. NTIA held Tribal consultations on September 12, 14, and 16, 2022, to hear from Tribes directly prior to releasing the next funding opportunity.

Question 5. The Committee has heard reports that the NTIA plans to use the Federal Communication Commission's broadband maps as part of the distribution formula for the IIJA Tribal broadband connectivity program funds. However, these broadband maps are not accurate for Native communities.¹ If NTIA indeed plans to use these maps, how does it plan to address the discrepancies in these maps to ensure the distribution formula is fair for all Native communities?

Answer. The current NOFO has, and any future NOFO will have, a process for Tribal Government applicants to self-certify that they are unserved irrespective of FCC Form 477 data.

Question 6. You testified that the NTIA is considering allocating some of the IIJA Tribal broadband connectivity funding to qualifying projects that NTIA was unable to fund using Consolidated Appropriations Act of 2021 funds. Has NTIA made this decision?

Answer. Yes. On August 9, 2022, NTIA announced that it had added \$1 billion from the IIJA to the current TBCP round one NOFO funding period, which closed on September 1, 2022.

Question 6a. If so, please provide the basis for this decision. What allocation method was/will be used? Did NTIA consult with Tribes on an allocation method?

Answer. NTIA consulted with Tribal Nations specifically on this issue on January 14 and March 18, 2022. Additional IIJA funding added to the TBCP round one NOFO will be based on awarding those applicants meeting the program priorities of the NOFO and the final outcome of the curing process. The balance of funds available through IIJA will be made available in a second TBCP NOFO.

Question 6b. If not, please provide an update on when NTIA expects to make this decision and whether it will hold additional Tribal consultations.

Answer. N/A

Question 7. Has NTIA arrived at an allocation method for distribution of the Tribal broadband connectivity program funds provided under the IIJA? If so, please explain.

Answer. NTIA has decided in part, to add additional funding from the IIJA to the TBCP round one NOFO as described above. We have yet to publish a NOFO setting out an allocation methodology for the TBCP NOFO number two. This methodology will be informed by the NTIA Tribal Consultations that we held on September 12, 14, and 16.

¹ See, e.g., U.S. Gov't Accountability Off., GAO-18-630, Broadband Internet: FCC's Data Overstate Access on Tribal Lands (2018).

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. STEVE DAINES TO
ADAM GEISLER

Question 1. What is the status of tribal consultation to implement the Digital Equity and Middle-Mile programs?

Answer. On March 18, 2022, NTIA hosted a Tribal consultation with Tribal Nations prior to the May 13, 2022, release of the NOFOs for the Digital Equity Act Programs and the Middle Mile Grant Program. We will be holding two additional consultations in October 2022.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BEN RAY LUJÁN TO
ADAM GEISLER

Tribal Broadband Connectivity Program

Congress expanded the Tribal Broadband Connectivity Program in the Bipartisan Infrastructure Law to address some of the unique barriers to broadband buildout on Tribal lands by providing an additional \$2 billion to the program.

Question 1. Mr. Geisler, the NTIA has awarded only 15 grants and \$6.4 million dollars out of the \$3 billion dollars Congress appropriated for Tribal broadband. When will we start to see a substantial number of awards and funding get out the door?

Answer. As of September 22, 2022, NTIA had made a total of 70 awards totaling \$755,737,402.24 from the initial round of funding under the June 3 TBCP Notice of Funding Opportunity (NOFO).

Given the volume of requests submitted in response to the June 2021 TBCP NOFO and the significant need to quickly expand high-speed Internet service on Tribal lands, NTIA announced on August 9, 2022, that it had added \$1 billion from the IJA to the current TBCP funding period, which closed September 1, 2022, increasing the total available for high-speed Internet grants as part of that notice to \$1.96 billion. In a letter, NTIA has alerted Tribal entities who applied in June 2021 that there is no action required on their part and NTIA will continue to announce additional awards on a rolling basis as they move through NTIA's review process. The additional IJA funding added to the TBCP round one will ensure a portion of the IJA funding reaches eligible applicants faster and reduces the burden on applicants to apply in a second NOFO but does, however, increase the amount of time to conduct application review and curing as well as when we are permitted to notify unsuccessful applicants.

The NTIA received roughly 300 applications for the initial \$980 million dollar program that collectively represented over \$5.5 billion in need. NTIA states that it will announce additional grants on a rolling basis, but without knowledge of whether it plans to open the second round of funding to additional applicants, many Tribes are left wondering whether they will be able to benefit from this vital resource for broadband deployment.

Question 2. Mr. Geisler, yes or no, does NTIA intend to open the second round of Tribal Connectivity Program funding to additional applicants beyond the initial 300?

Answer. Yes.

Right now, funds only support 25 megabits per second down and 3 up for Tribes, which is an outdated standard that does not match existing needs for 100 up/20 down for all other broadband programs. *Question 3:* Mr. Geisler, do you believe 25 megabits per second down and 3 up is sufficient for Tribal broadband? *Response #3:* The TBCP program promotes speeds higher than 25/3 as identified in the merit scoring criteria. Per the enabling legislation, Congress set the minimum speed to be considered served at 25/3. NTIA has and will continue to promote the greatest speeds capable given the nature of the available funding, backhaul, and terrain of the applicant's proposed service area on Tribal land.

Question 4. Mr. Geisler, yes or no, does NTIA plan to update this requirement so that broadband infrastructure on Tribal lands and for Tribal entities is held to the same standard of 100 up/20 down?

Answer. NTIA lacks the authority to update the requirement. NTIA is held to the language in the enabling legislation identifying those with access to 25/3 as "served" under the program rules. However, NTIA would welcome a friendly amendment to the TBCP legislation promoting faster speeds for eligible TBCP applicants.

**U.S. SENATE COMMITTEE ON INDIAN AFFAIRS—ROUNDTABLE
DISCUSSION ON CONCRETE SOLUTIONS: BUILDING A SUCCESSFUL
FOUNDATION FOR NATIVE COMMUNITIES' INFRASTRUCTURE
DEVELOPMENT—WEDNESDAY, JUNE 23, 2021**

The Committee met, pursuant to notice, at 2:34 p.m. in room 628, Dirksen Senate Building, Hon. Brian Schatz, Chairman of the Committee, presiding.

Present: Senators Schatz, Murkowski, Cortez Masto.

The CHAIRMAN. Good afternoon. Welcome to today's roundtable. I want to thank everybody for participating and logging on.

Today we are going to hear about opportunities for and existing challenges to successful deployment of infrastructure in Native communities. This will be an important discussion, particularly in light of the historic levels of Federal funding directly targeting Indian Country and the Native Hawaiian community through the COVID-19 relief and recovery legislation passed last year.

I will kick things off with questions in a minute. First, I want to go over some housekeeping matters. For panelists participating remotely, members will be able to see you on WebEx and call on you accordingly. I will ask those panelists to remain on mute until they are recognized.

But this is a roundtable and not a hearing. Although you are all participating from across the United States, please feel free to jump in at any time, even if the question is not directed to you. Just be sure to raise your hand so we can recognize you and make sure you are on the monitor for everyone to see.

Please also identify yourself as you start to speak, so that our court reporter accurately picks up who is speaking.

Now for introductions. It gives me real pleasure, and I know Senators say this all the time, it gives me real pleasure to introduce someone, but it really does give me tremendous pleasure to introduce one of my oldest and dearest friends in politics, William Aila, the Chairman of the Department of Hawaiian Homelands in my home State of Hawaii. Mr. Aila is joined by his deputy, Tyler Gomes. Aloha and welcome to you both.

I will now turn it over to Senator Cortez Masto to introduce one of the panelists.

Senator CORTEZ MASTO. Chairman, thank you so much. And it gives me great pleasure to be able to introduce this panelist, who is Chairwoman Janet Davis of the Pyramid Lake Paiute Tribe. The chairwoman brings important perspective to today's roundtable, having previously served as both a 21st century after school coordinator and on the Pyramid Lake High School Board, as well as on the Committee for the Indian Health Services. These experiences have helped her as she has taken over the role of chairwoman in the middle of the COVID-19 pandemic.

I believe she will give us an insight into the needs of tribal communities as it relates to infrastructure. I am so pleased she is able to join us and I look forward to engaging her and all the panelists on issues such as tribal road safety, broadband access, and energy infrastructure as well. Welcome.

The CHAIRMAN. Thank you, Senator Cortez Masto.

I will introduce the rests of the panelists. We have Ms. Carol Gore, President and CEO of the Cook Inlet Housing Authority in Anchorage, Alaska. We have Mr. Anthony Morgan Rodman, Executive Director of the White House Council on Native American Affairs in Washington, D.C. Mr. Jason Freihage, Deputy Assistant Secretary of Management for Indian Affairs, the Department of Interior. The Honorable Janet Davis, Chairwoman, Pyramid Lake Paiute Tribe—oh, I am sorry, Senator Cortez Masto just handled that one. The Honorable David Flute, Secretary, South Dakota Department of Tribal Relations. Mr. Anthony Walters, Executive Director, National American Indian Housing Council, not a stranger to this Committee. And Mr. Godfrey Enjady, President, National Tribal Telecommunications Association in Chandler, Arizona.

Welcome to you all. Thank you for participating.

Native communities' critical infrastructure needs such as roads, sanitation, electricity, and housing have been well documented yet underfunded for decades. We made a dent in that with the CARES Act, but more importantly with the American Rescue Plan, which represented the biggest investment in Native communities in American history.

But it is a shame that it took a global pandemic for us to recognize how these unmet needs put Native communities behind the eight ball when it comes to health care and economic recovery.

As Congress acted to address both, it became clear that Federal investment in building new and updating existing infrastructure in Native communities was no longer nice to have but actually essential. For example, no matter how much money Congress dedicates to increasing access to broadband across Native lands, if the rel-

evant Federal agencies are not coordinating or if a right-of-way hasn't been secured, then the work becomes delayed, or worse, it simply won't get done. And that cannot happen.

I look forward to hearing from all the panelists, but I am especially interested in hearing from our panelists representing the Administration about how it is prepared to address deployment challenges and support infrastructure spending by tribes and the Department of Hawaiian Homelands.

So let's get the questions going. Senator Murkowski is enroute from Senator Warner's funeral, and also dropping by the infrastructure talks with the White House. So she is certainly doing good work this afternoon on the same topic. She expects to be here shortly.

Let me start with William Aila, the Chairman of the Department of Hawaiian Homelands. Secretary Haaland recently announced the transfer of 80 acres of surplus Federal property in Ewa Beach for inclusion in the Hawaiian Homelands trust. Since the former NOAA Pacific Tsunami Warning Center was located on this land, there is some infrastructure in place for DHHL to build out. There are residential areas nearby.

What are some of the challenges that DHHL has to overcome in order to develop the infrastructure needed to facilitate Native Hawaiian families returning to Hawaiian homelands? What kind of support will the DHHL need from Congress and the Administration going forward?

Mr. AILA. Good morning, Senator Schatz, and aloha to Senator Murkowski who is on her way. The relationship between Hawaii and Alaska is longstanding and super important.

I wanted to make you feel a little bit homesick this morning, because the south shore has a really nice swell in your favorite spot. There is no wind and the swells are glassy. So I want you to think about surfing at home for a while, while you are doing all of this hard work.

The CHAIRMAN. Mr. Chairman, you are killing me.

[Laughter.]

Mr. AILA. If you permit me, before I answer your question regarding the NOAA property, I would like just to have a minute to talk about context. Within the constraint of today's title discussion, which is the concrete solutions, building a successful foundation for Native communities, a successful foundation, I would like to expand the understanding. This is coming from a Native perspective.

I know that there is a hesitancy to expand any definition of infrastructure currently on the Hill right now. So just bear with me.

The purpose of physical infrastructure is a means by which we desire an end. The end is to achieve improvements in the infrastructure of the humanity which is Native families and Native communities. Also, non-Native families and non-Native communities because it is really about families, how do we get families in a situation, especially coming out of this pandemic, to be healthy and to be safe and to prosper?

I am going to ask for your indulgence and start with a personal reference to my family who has been on homestead land for more than 25 years. Members of the Committee and our fellow panel members, this program has meant to me and my family that we have been able to live in a safe and healthy environment assisted by FHA loans, which were not always available to homestead lands. But the FHA loan guarantee and the FHA loan that allowed us to build our home is something that provides security, it provides safety, it provided my family an opportunity to lead a measured life where we were able to save money and to apply it to our children's education.

What does that mean, the infrastructure of humanity? The ability for one of my sons to go to college and now he is working for an ali'i trust who has responsibility for providing opportunities for orphan and indigent Native Hawaiian children to prevent them from going down the wrong path. That is what the infrastructure, when we think about it, the infrastructure that is so important and the help from Congress is so important results in.

So I believe it is in perfect alignment with President Biden's desire to get folks to understand what is infrastructure really all about. It is more than just concrete and it is more than just roads and it is more than just buildings. But in Hawaii we have 20 thousand plus Native Hawaiians who are on the wait list. So infrastructure is critical and infrastructure is important.

This property over in Ewa Beach represents an opportunity because the base infrastructure is right at the end of the property. It is a matter of improving the infrastructure and the vertical on this property. Now, there are some challenges, because of climate change, which you don't normally associate with infrastructure needs. But the ability to mitigate sea level rise on this particular property is a classic oppor-

tunity for NAHASDA to be explored and to be expanded in terms of flexibility on how we use funds for climate change mitigation. So that is one opportunity.

The infrastructure costs here in Hawaii of course are very, very expensive, because we have to bring everything in from overseas. The time delay, the shipment, I am sure all of my fellow panelists can understand and respond to that.

For Native Hawaiians, the reauthorization of NAHASDA is critical. I cannot help but repeat that again; it is critical. A return to appropriation levels of the past somewhere in \$15 million to \$20 million is something that is also critical if we are going to expand the ability for the Department to increase opportunities for those 20,000 beneficiaries who are on our wait list.

The ability of DHHL to work with HUD, here is an example of flexibility in our housing plan has allowed us to provide critical assistance during the pandemic. During the pandemic, I just would like to toot the horn of our staff, because they really came through. So there is a quick timeframe of pandemic really started in the month of, or began to be understood in the month of March in 2020. On March 24th, 2020, the Hawaiian Homes Commission conducted an emergency meeting and approved the postponement of mortgage loan payments for all of our direct loans for a period of six months, effective April 20th. Three weeks later, because of HUD's flexibility and their ability to work with us, we were able to get approval from the commission to deploy up to \$2 million for rental assistance. This was pre any other assistance kicking in.

So I just want to acknowledge my staff for the quick reaction and the benefits of using NAHASDA, because we had a flexible housing plan and we had support from HUD. That is a clear example of how NAHASDA has been very, very helpful in dealing with the pandemic and hopefully suggestions coming forward and possibly being adopted can help us really improve the after the pandemic.

All of the funding that the Congress has approved for pandemic rental assistance and utility assistance has been critical in terms of holding the social fabric of our Native community here in Hawaii, as well as the broader community here in Hawaii. So here is an example of where government has actually worked and has actually prevented further damage.

There are other Federal sources of funding that I would like to highlight, Senator Schatz because you mentioned it in your opening remarks. The USDA Water Environmental Program is another source of funding that I know that Native Hawaiians can receive assistance from. However, the prohibition on use of this money for exploratory wells is something that if fixed, will have huge impacts on the ability of the Department of Hawaiian Homelands to develop, to provide. Most of our lands, most of the 200,000 acres of lands are on islands that are spread out, in very remote areas. So the drawback to developing those areas, of course, is having access to water, is having access to funding for roads, infrastructure, loans. I appreciate your patience; we will send you additional information in terms of other Federal programs that can be used to assist both Native Hawaiians as well as I think other Native American groups.

I just want to thank you for the opportunity to allow me to provide at least a Native Hawaiian view of infrastructure and what it means to our families and what it means to generations after generations of our families. I would point out that in Hawaii we have many multigenerational families that are living together. This morning, at 2:00 a.m. I was gifted with my fourth grandson, who is going to grow up on homestead land and going to be a productive member of society.

With that, thank you for the time to expand and provide the testimony of how critical NAHASDA and other Federal programs are to Native peoples.

The CHAIRMAN. Thank you, Mr. Aila. As we say in Pauoa, mazel tov.

[Laughter.]

The CHAIRMAN. Senator Cortez Masto.

Senator CORTEZ MASTO. Thank you, Mr. Chairman.

Thank you, a great start to the conversation already. I am sure similar issues we could hear from the other panel members as well.

Let me start with Chairwoman Davis. Thank you again for being here. If you would, please talk a little bit about, as a western State, obviously, let's bring it back to the desert, and talk a little bit about, we have seen the impacts of climate change, severe drought, wildfires. How is this threatening and/or impacting both the community needs that you have, your infrastructure needs, as well as your cultural resources? I am curious if you can address that as we talk about infrastructure needs in general.

And please put in perspective for members to understand, Pyramid Lake Paiute Tribe was one of the first in the State of Nevada really to partner with a non-profit. It was Blackrock Solar, to bring solar projects into the State of Nevada. So if you would, Chairwoman, please talk a little bit about the challenges that you are facing

with respect to infrastructure needs, and some of the positive stuff that you have done already.

Ms. DAVIS. Good afternoon, and thank you for the introduction, Senator. I am grateful to be here this afternoon. It is afternoon for you, but for me it is still morning.

We live in a desert area, Nevada is desert. We have the need for infrastructure for water. And we are looking at the new funding available. It is not very much funding when you look at all of the infrastructure needs that we need for water. We have had this discussion; we need to do wells. We have old pipes in the ground. There is definite need, as was discussed here earlier, for the housing as well. In order for us to provide more housing for our tribal members, we have to have the infrastructure. We don't have the ability or the funding available to do the wells and to do all of that.

We are looking at possible ventures into solar energy. We are working on that avenue to provide some extra funding for our communities to use to help with the infrastructure needs. Definitely, we have the ability to do these contracts with the solar companies, but having to wait and I guess maybe those questions will come later as far as the road rights-of-ways and easements that we have to wait to go through the Bureau. We are in the process of getting our HEARTH Act approved through the Bureau as well, through the Secretary of Interior. It hasn't quite gone through yet.

So any time that we are trying to get into agreements with anyone to provide us the ability to look into economic development to provide for the infrastructure, to supply the tribe with those needs, we are at the mercy of waiting for the Secretary of Interior to approve these agreements up to six months. A lot of times when we do business with companies, it takes a long time to get the approval. As you know, companies want to move right now. They don't have the patience to wait later on down the road.

Definitely, we do have a lot of infrastructure needs here as far as to build more housing, to provide even fresh well water. Just like anywhere else, from what I am seeing on the news, we have old, old pipes in the ground that even if we did build new wells, we still have the old pipes still in the ground that need to be changed out. We don't have the capability or the funding to provide that need for our communities.

So there is a need for more funding out there for us to build the infrastructure. And definitely the ARP and some of the CARES Act has helped us begin that. But then again, you have to put your priorities in place. That is not a lot of money to take care of all of our needs in our communities. I can speak for my community alone, but I know other tribal communities have that same need as we do.

Right now, it is like putting band-aids on different areas to make do. It shouldn't be like that. If we provide the ways and means for our tribes to be able to do the economic development, to put those things in place, to make it easier for us to do economic development, that would be helpful. Part of it is changing some of these previous measures that have been into an act, to renew that act that you guys haven't looked at in a very long time, to make it more easy for us to maneuver through the economic development, to do the rights-of-way, to do the easement, to enable us to help ourselves out. That is what I am thinking.

Senator CORTEZ MASTO. Chairwoman, thank you.

Mr. Chairman, if I can just do one follow-up question. Chairwoman, can you also address the challenges utilizing Federal programs, and going after Federal grants, like those at the USDA Rural Development? Are there challenges that you face even applying for those programs, or those grant funds?

Ms. DAVIS. Yes, I would say there is. They are helpful, but they can be very complicated. For example, we have a commitment to do a partnership with the solar company. But we don't have access to the tax credits that are offered. We don't have access to those. The companies get them, when we partner with them, the company will get them. We wouldn't as a tribe.

So say for that solar company, for us to do the same venture, for us to build our own community solar or microgrid, we would have to pay the full price to be that partner, or to outright buy that, for example. Whereas you are offering tax credits to companies but they get the tax credits, the tribes don't get the tax credits.

So that is not helpful. That is a challenge.

Senator CORTEZ MASTO. Thank you.

The CHAIRMAN. Thank you, Senator Cortez Masto.

Mr. Enjady, as you know, the American Rescue Plan included a historic investment of nearly a billion dollars to expand broadband access in Native communities. What other needs should Congress take into account when it comes to increasing broadband access? I am particularly interested in this question of right-of-way. But

also more generally, it is easy to, it is not easy, but it is only one step to appropriate the dollars if there is a labyrinth of permits that have to be navigated, and rights-of-way that have to be secured.

That may not be within a tribal government's capacity to get it done, and a billion dollars sounds like a lot, but not across hundreds of nations. I am wondering if you could comment on that.

Mr. ENJADY. Thank you, Chairman Schatz. I really appreciate the opportunity to speak before the Committee. I also want to thank Vice Chair Senator Murkowski for allowing me to speak today.

It is a vast arena that has been developed by funding that is made available for tribes. A lot of tribes are really going out right now to be able to understand how to provide the funding to build better broadband across Indian Country. These are some of the things that Indian Country has needed for quite a long time. The pandemic really brought it out, especially for needs for children and schools. Providing communications for tribal nations across the Nation is one of the key things that we should be providing.

Universal service should be across the whole land. That is some of the things that should be provided by a bunch of this funding that is happening right now.

In order to be able to apply this funding, tribes need to educate themselves on how to provide that kind of broadband. Looking at ourselves, there are not very many tribal nations that have telephone companies or broadband companies. If you look at it, NTIA is comprised of ten tribally owned telephone companies throughout the Nation. We are the professionals in how we do our business.

But we want to give and share that experience with all tribal nations to be able to go through this, to be able to go through all of the pitfalls that we have gone through, we want to be able to educate and help tribes go through all the roadblocks that are there, especially with rights-of-way. If we can control a lot of that ourselves, we can be able to provide the funding and be able to go and place cables and underground fiber where they need to be, set up towers that we need to do.

I think we are more sovereign than we think we are sometimes to be able to do this. These are some of the things that we need to be able to provide. Education is a key point. If we look at people in industry, I have a good friend, Jose Montanani, who has been working in the industry since a very young age, placing fiber for the Gila River Tribe, being a general manager for Fort Mojave Indian tribes. All these kinds of professionals, there are not a lot of us out there. I myself came from the industry at a very young age and have been in the industry for about 35 years. As you can see, I am getting old. Now we need some of the new younger folks to come up and start being a part of this group of professionals that provides services to Indian tribes. We need better education to do this.

Rights-of-way is a big issue. The realty part of this is cumbersome, hard to get through with the BIA. But I am sure Secretary Haaland is going to change a lot of that. Hopefully, we can get through a lot of this to be able to get the rights-of-way that we need to get through Indian Country and build out the infrastructure that we need.

The other thing that we need to look at is sustainability. There is a lot of funding coming to the tribes but are tribes able to provide that service, operational expenses that happen after we build these networks? Who is going to take care of these networks? Are tribes able to do that? Hopefully, we can do that through looking at some of the acts. The Bridging Tribal Digital Divide is another one that could be used to provide that sustainable funding as we keep moving forward. Contribution reforms at the USF is another one that could be used to help tribes to build out these new networks that are out there.

Also as someone had mentioned earlier about applying for a lot of these funds, RUS has been a good friend to Indian Country, especially when it comes to providing funding. We go after loans and we pay back the government as we have always done. I have gone through three loans right now, I have already paid off one, I am halfway through another one and am applying for another loan to be able to provide services in this area. Hopefully, I will be able to at least try to get some of the funding under these NTIA grants that are available now.

So as we keep moving forward, there is a lot that has to be done, especially infrastructure. That is just one of the foundations that needs to be laid. As you have heard, housing, water lines, sewer lines, all these other ones, roads need critical repair, and need funding to be able to do this.

It is a great start that we are going through this whole thing so Indian Country is recognized in these areas.

The CHAIRMAN. Thank you very much for those thoughtful comments.

Assistant Secretary Freihage, I have five questions for you. I am going to give them to you relatively quickly, and hopefully you can get back to me relatively quickly. They are calling votes soon.

The first is this question of environmental review on some of these projects, and whether or not there is work we can do to help tribal governments to expedite.

The second is on the question of rights-of-way and whether or not there could be a point person in the Federal Government to help a tribe to navigate the labyrinth, BLM, BIA, who knows, Park Service, DOT. But it seems to me that if you are not in the real estate business, even if you are, it is hard. But certainly if you are not then this stuff gets really, really challenging. You need a friend in the government to help you to figure it all out.

Number three is, my understanding is that GAO tried to do a needs assessment of broadband in tribal communities, and they basically couldn't come up with a number. I am wondering whether there is another way to get at this. This is a problem on tribal land and not on tribal land of trying to determine who does have connectivity and who doesn't. But certainly, without knowing the total need it is hard to appropriate a dollar amount, or authorize a dollar amount.

Number four, I just want us to all keep an open mind about the possibility that for some communities, satellite or other non-hardline infrastructure ends up being the better solution to get you that internet connectivity. The point is to get internet connectivity, the point is not to have a buried cable going to your home. If that is the best way to do it, that is fine. I have no objection to it. I have been a supporter of that all my life.

But I also think that in certain particular instances, it may end up being cheaper and quicker to look at other technologies. I think even if we don't land there, it is important for the broadband folks to feel a little bit of the heat of some free market competition among the various ways to provide connectivity for homes.

Then the final thing, to Chairman Aila's question about the permissibility of using some NAHASDA funds, and other Federal funds, for resilience. In my experience of working on climate, if we talk about resilience, if we talk about severe weather, we can get good bipartisan support. Sometimes when you talk about climate, it tends to polarize. But I do think mitigating against natural disasters is something that we all have an interest in.

So, go for it. You have three minutes.

[Laughter.]

The CHAIRMAN. I am just kidding. Go ahead.

Mr. FREIHAGE. I will try and make it as quick as possible. I am probably going to lump the first two together, a little bit about the environmental assessments and rights-of-way. The idea of having a central point certainly has merit. We can look into that. We have been, in Indian Affairs, BIA has been focusing on some improvements there. Recently we put out a new policy memorandum that streamlines the process for broadband rights-of-way, for example. We hope that will help get the approval process under 60 days, which is currently kind of the regulatory time frame once we have a complete package from the requester.

So I think using that as an example, putting more transparency in the status of requests, the module that they added to the TAM system for processing a lot of these requests helps on the tribal side, for folks to understand where the package is so they can come back and hey, what is going on, have more accountability there. I think that has been helpful, too. We are continuing to look at some other improvements on that. Again, we will follow up to work with folks about a central point of contact.

Regarding a broader assessment of broadband or infrastructure in general, internally we have taken some looks at merging where are tribal lands and taking overlays of information on broadband accessibility. Obviously, it is at a high level. It doesn't get into solving all these local solutions.

But we have done some higher-level initial assessments. I think to do the next step would be a bigger effort, a little more costly. I think it certainly could be done. I think it is critical to engage, though, with tribal leaders on their goals for broadband deployment in their communities for how we approach that, and how we would do the assessments.

So I think those are some factors we would take into account into doing such an assessment on broadband.

Regarding satellite, we actually are looking into using satellite right now. One of the areas to try and problem solve when we are building out distance learning for BIE schools, one of the lessons we learned is okay, we are almost at the point, we are down to only two schools left that don't have the minimum level of broadband speed.

So if the schools were okay, the question then is how do you get the accessibility to the families. In some cases we were giving them the little wi-fi hot spots for people that actually have a cell signal nearby. But then there are a lot of folks who don't have that. That is the tough spot.

So we are actively looking into working a pilot to test out satellite based broadband connectivity. That is something that in the coming months we can get back to you on and report progress there.

I think the lesson learned with anything broadband or many of these infrastructure proposals is, there really is no one size fits all. We would like to rubber stamp an approach that works everywhere, but it is often about working for some of these local solutions. We have been looking into satellite as one approach for some of these areas.

Regarding resilience funding, I am not going to jump into comment for HUD or NAHASDA. They are specific areas. But clearly, taking into account factors, natural hazards, climate driven factors, wildland fires is important. One of the factors proposed in the Jobs Plan is a billion-dollars proposal for fuels management. Obviously, we want to be doing what we can to not expose new infrastructure and existing to increasing and hotter wildland fires.

So I do think that is something that needs to be taken into account. There are multiple strategies for how to do that as it varies based on the threat that we are facing.

The CHAIRMAN. Very impressive, Secretary.

Chairwoman Davis, you wanted to respond to something someone said, and then Senator Cortez Masto has an additional question.

Ms. DAVIS. So in what was said and what was responded to, my question was, some of the offerings for the broadband as far as the grants and those things that were offered, there was a lot of stipulations in those. We applied and we were denied. That was during, in the middle of the pandemic. We had received the CARES Act funding. That could have been a priority to help our students. Where we live, we are rural Nevada. Not all our kids go to our BIE schools. They go to all different public schools within our area. We probably have about maybe 200 kids that bus out of here every day. They didn't have access to the broadband.

If we had known all the stipulations that those applications asked for, it made it hard for us to apply for those fundings. So basically, we missed out on using our CARES Act funding for broadband and anything.

Yes, I agree it would be helpful if we could use some of this grant funding to do the satellite services and any of that.

Then on another note, as far as the rights-of-way and all of that, I am sure that you guys will be actually passing an act that will help as well as the HEARTH Act has helped. I don't understand why when the HEARTH Act was followed up and passed that it wasn't included, that you did not include easements and rights-of-way and things that would provide for us to make those lease agreements easier to maneuver through. That is just my comment.

The CHAIRMAN. Thank you very much.

I will move right to Senator Cortez Masto in one moment, but just to tell you that the benefit of this Zoom thing is that you can have participants from all over the Country. The downside is that you didn't get the opportunity to see the Assistant Secretary nodding vigorously and taking notes about all of your comments.

We will follow up with the Secretary on everything you have said.

Senator CORTEZ MASTO. followed by Chairman Aila. Then please, those of you who are participants who have not yet participated, we welcome your participation.

Senator CORTEZ MASTO. Thank you.

This question is for Ms. Gore, with the Cook Inlet Housing Authority. I am curious, one, to hear your thoughts on the conversation so far, particularly as it pertains to housing. But also, what would you recommend particularly when it comes to Federal programs that support development of housing? Which ones should we be thinking about to prioritize as part of an infrastructure package? I would love your thoughts on that.

Ms. GORE. Thank you very much for that question.

I think NAHASDA has been an amazing gift to Indian Country. It is the only Federal funding that is really focused on housing. Prior to NAHASDA, it was a very competitive program. In our experience, in 25 years, pre-NAHASDA, we built 267 senior affordable rentals. Since NAHASDA, we have built over 1,600 homes. The power of authority and being able to address local needs with a block grant that has some flexibility for tribes to do what needs to be done rather than a prescriptive grant program that we had experienced previously was just an amazing gift to Indian Country.

I would say just a couple of things. First, I want to express our gratitude for elevating tribes and housing in the CARES Act and the ARPA funding. That was really critical. The rental assistance has been an amazing gift. We see hundreds of families benefiting from those funding sources.

At the same time, we are keenly aware of the housing needs pre-COVID, pre-pandemic. The pandemic simply elevated those things to a very, very high level.

I would recommend some very simple things, three things. To recognize housing as infrastructure in whatever infrastructure bill Congress moves forward. It is critical to our communities.

Second, to help us correct what we see as a historical injustice in the HUD budget to bring equity to Indian housing. We have seen the HUD budget grow more than 50 percent, to \$56 billion. And in that same 25-year period, the IHBG, the Indian Housing Block Grant, has seen a 4 percent increase.

To us, that is a serious inequity to Indian Country and something that would really help to stabilize the IHBG program and help us really grow and produce more housing.

Finally, just to give a shout-out and a came-i to Chairman Aila, reauthorize NAHASDA, please. I think that would help to stabilize our program and would help us greatly.

Many I would say one more thing. We are ready. We know our needs. We all have pipelines. We have families who are waiting. All we really need is more NAHASDA funding to make a difference in our communities. So I would just encourage and urge the Committee to think about the same opportunities you have already given. They have been awesome.

But also think about what is ahead of us, and to try to bring some equity to our funding as it relates to public and Indian housing. There is an I right in the middle. We should be standing up very tall for this Committee. We appreciate your attention. Thank you.

The CHAIRMAN. Thank you very much.

I am going to give the order of people to speak right now. Mr. Aila, we would like to hear from Mr. Walters, because we are now deep into a housing conversation. Then Mr. Enjady as well.

Mr. AILA. Thank you, Chairman Schatz. Real briefly, I would just, with regard to broadband inequity, like the Committee to consider perhaps a public-private partnership in terms of expanding programs like the new market tax credits, where we can incentivize private companies and utilities to provide the broadband, the expensive broadband, i.e., fiber, physical infrastructure to our Native communities. That is another option that we should be taking a look at.

Thank you for the opportunity to make that suggestion.

The CHAIRMAN. Thank you, Mr. Walters?

Mr. WALTERS. Thank you, Senator. Thanks to all the members of the Committee for focusing on housing. I think it is a great sign that housing is a part of this conversation. I will certainly echo Ms. Gore's comments there. We are still going by the HUD report from 2017 saying 68,000 units are needed across Indian Country. Everyone can have an opinion on whether or not that is accurate or whether it is low. I think most people would say it is a low estimate. But it is hard to say we are combating infrastructure needs if we are not taking into account the housing needs for all these tribal communities across the Country. So we certainly appreciate the focus on housing here.

Certainly, the priority for NAIHC and tribal housing programs is access to more resources. Certainly, that can take the form of straight NAHASDA funding. I think as you have seen in the APR and CARES Act and the omnibus that created the Emergency Rental Assistance Program, the Homeowner Assistance Fund, if we are not going to put funding straight to NAHASDA programs, and there was funding there for those as well.

But tribes are there, ready, and able to access these larger national housing programs and do so in a good way. So if we are going to dedicate resources to housing outside of Indian Country and not have kind of an equitable also response for tribal housing, give tribes access to these programs. It is across the board.

It is not just these new ones. It is USDA Rural Housing programs, it is encouraging private finance, commercial investors to really engage tribal communities and develop tribal communities. We have a lot of tax credit programs that are there to serve underserved communities. But tribal communities are always the last out of those underserved communities to really receive that attention from investors.

So if having those general set-asides or incentives aren't working for tribal communities, I certainly would encourage taking a look at some of these other programs that are out there, really utilizing tribal infrastructure.

We have seen in the USDA pilot program, I know a lot of members of this Committee have been working on this, the re-lending of Federal loan dollars through Native CDFIs. It is a great way to get Federal funding to the ground or into the local tribal communities that we just weren't seeing. These programs have been around for decades and not really being strongly implemented in tribal communities. But when we start utilizing the tribal infrastructure, we can see a great result and turnaround there.

So certainly a lot of opportunities and means to add resources to tribal housing programs across the Country, and certainly the best place to start is NAHASDA. Reauthorizing NAHASDA to give these tribal programs the certainty they need show that it is still a priority of Congress, and of course it is, through the funding that we have seen these last two years. But certainly a lot of places that we can still make improvements.

Senator MURKOWSKI. [Presiding] Thank you. I understood that President Enjady wanted to jump in here with a comment.

Mr. ENJADY. Yes, I do.

Senator MURKOWSKI. Go ahead.

This is in response to Chairwoman Davis' ask about missed opportunity on the broadband funding underneath the CARES Act for them to use for schools.

There is a new fund out right now called the Emergency Connectivity Fund. It is \$7.1 billion that is available through the FCC. Acting Chairwoman Rosenworcel is the one that brought that about. It is funding for computers, tablets, wi-fi hotspots, broadband services to students, faculties, and schools and libraries. It is something that is available right now.

So you should be able to try to get into that and get some funding for the schools. Hopefully, there is other funding that might be made available for that.

Also with the rights-of-way issues, I wholeheartedly believe that is correct, and how we should be able to try to get that within six months. I am wholeheartedly for that.

The other part about satellites, it is a new industry for the new types of satellites that are coming out that are over our heads right now. Something that has always been a problem, though, for it is lifetime. Lifetime, especially when I will talk to my aunt in Alaska, there is always that bit of a difference on wondering if they heard me yet or not. That is still a problem.

But as these satellites get closer to Earth, the signal doesn't have so far to bounce. So that is something that is getting better. It is still early on. But it could work for some areas, these real remote areas, it doesn't make sense to try to run fiber out to. So I wholeheartedly agree with that. But like I said, it is still new. That is all I would say. Thank you.

Senator MURKOWSKI. Thank you.

My apologies to all of our panelists this afternoon. We are talking infrastructure here, obviously, very key, very important. I have been in discussions all week, and they have continued through this afternoon as well, with regard to where we are with infrastructure negotiations with the White House and colleagues here in the Senate. So my apologies to you.

But thank you all for your participation and the discussion around particularly housing as it relates to infrastructure. I had a virtual roundtable last month with the Association of Alaska Housing Authorities to discuss Alaska Native housing priorities. Every single one of those housing authorities raised the issue of housing as infrastructure.

So I think we recognize these areas of importance, and again, what more we can do to incentivize financial institutions to invest in our Native communities.

I want to start with some questions directed to you, to Carol Gore, my friend from Alaska, but also the President and CEO of Cook Inlet Housing Authority. When we had the discussion last month in May, there was a robust discussion, again, about the importance of housing to the infrastructure within a rural Native village.

I would like to ask you, Carol, in terms of lending mechanisms to address housing infrastructure, how can we best facilitate, assist, how can we ensure that from a funding perspective in these remote areas that are very high cost, that access to materials is limited, what is our right lending mechanism here?

Ms. GORE. Vice Chairman Murkowski, and my own Senator, it is really nice to see you. Thanks for the invitation.

It is interesting. I will just start by making a statement that you already know firsthand, which is, there is no private market in our rural village communities. So lending mechanisms are really tough. Between the cost of delivering that housing and finding a way in a subsistence economy for our people to afford some payment of debt, it is really challenging. I think there is a balance. First of all, USDA is one tool that I know was used. There is a BIA HIP [phonetic] program that we have

been very creative in using. Section 184 has been a significant tool for Cook Inlet Housing, and others are trying that on as a way to address their workforce housing in their communities. I think that is critical as we look at housing both that are essential to our communities like teachers and safety officers and health professionals.

So there are a myriad of tools. There aren't enough. I would say many of us like Cook Inlet Housing use low-income housing tax credits. But they are very challenging to use in a rural situation because there is a lack of economy.

I think we have a chicken and an egg. We can't have an economy in rural Alaska without adequate housing.

When I think about the lending mechanisms, and I hope, Senator Murkowski, you will forgive me for taking a bit of a side path here, but you have seen firsthand what it means to live in a home with 18 people and two bedrooms and one bath. How can we expect them to have a good work life and their kids to get a good education if they don't have adequate housing?

So when I think about lending mechanisms, I think about first of all how we create that thriving economy for them to be able to afford some debt. There are some very creative ideas that we are experimenting with, one that I think Rural Cap tried. It was a tiny home, and with multi-layers of grant funding, they got down to a payment of \$250 a month.

Those are experiments; they don't work for everyone. But I know that my peers and I are all working very hard to create those good examples.

How do we layer them? We brought in foundations who I think are willing to help us pilot some new ideas. It would be wonderful if the Federal Government would allow us the flexibility to pilot some new ideas, invest in us. We know what we are doing. We have the capacity to build in extreme climates. Let us try some different things on.

But in order to do that, we need some patient funding, we need some inexpensive funding. Conventional debt today may be roughly 3 or 4 percent. I would give my life for a 1 percent debt and 40 years to pay it back. That kind of patience is what we need.

I am not sure where to lean into that. But I do think there are some opportunities for us to give you some more specific feedback post this conference. If I haven't answered your question, please let me know.

Senator MURKOWSKI. You have, Carol, and you have given a level of depth and detail which I really appreciate. You remind me, and there were some people on this Committee, some of the staff on the Committee, that had an opportunity to go out to the Committee hearing that we held out in Savoonga a couple of years ago, and to be in one of the homes, well, to be in several of the homes to see the conditions of families, as you mentioned, having 18 people in a couple bedroom home.

I recall going into one home. This was right at the end of the summer. The house was a little bit disrupted because the children needed to adjust their sleep schedules because people in the house, there were so many people living in the house and so few places to sleep that people literally slept in shifts. The children, because it was summertime, didn't need to go to be early. But they were trying to get everybody in a sleep pattern, so that when the kids started school, I think the following week or so, they would be going to bed before 2:00 a.m.

I remember as I was trying to move around this very crowded home that one of the individuals who was taking his turn sleeping as part of his shift, it was the afternoon. It was the local BPSO, the law enforcement officer. It was just a reality, you bet, when you have housing that is so overcrowded it doesn't even meet the definition of housing. It was something that you don't forget. Very impactful.

So as you point out, you have limited ability in these subsistence economies to pay for housing. You cannot get the professionals, whether it is the law enforcement, whether it is the teachers, whether it is a health aide, whether it is a postmaster, because there is simply no housing.

As we are working through appropriations right now, I know that some of the initiatives that we are looking at are those that will help to build out housing for professionals, whether it is in public safety or education or in health care. So finding some innovative solutions, working not only within our Federal programs, but also using those partnerships with different Native organizations and out on the private sector as well.

I would ask you to just again give more considered thought about different ways or different mechanisms that we can utilize. I think your key here is flexibility. We need to have some flexibility. We need to have programs that recognize not only the cost issues but the access issues and really how lack of housing limits any level of not only economic opportunity but just a quality of life, whether it comes to access to health care or just being able to keep the small post office open.

I want to turn to Secretary Flute from South Dakota. Just a general question for you in terms of what you see as the biggest impediment to developing road infrastructure on tribal lands. Then if you could also weigh in with the same question that I just asked Carol Gore in terms of potential opportunities to incentive financial institutions to invest in infrastructure in Native communities.

Mr. FLUTE. Thank you, Madam Vice Chairwoman Murkowski, members of the Senate Committee, for this roundtable.

I think the biggest impediments in tribal roads infrastructure is, we have to take a look at the decades of how long ago these preexisting roads were built. The different types of compaction tests that were acceptable maybe back in the 1940s, the 1950s, are not the same standard that are acceptable today.

So when our large land-based tribes are looking at repairing their roads, they may be cutting two feet down and now finding that what would have cost maybe a million and a half a mile to repair a road is now costing maybe \$2 million or \$3 million a mile because they have to not only dig two feet deep down but now, they have to dig three and four feet deep to relay that underground and get a good compaction.

There are a few of the other challenges that we see. I heard somebody talking about the rights-of-way. Some of the BIA roads do not have rights-of-way established. There are a lot of times that process can take a while. So finding a way to streamline that, getting those engineers out there to do what they need to do and the surveying, getting these rights-of-way established so that the tribes can start making their roads better.

Senator MURKOWSKI. If I can interrupt on that, how long on average does it take to complete a road project on tribal trust lands?

Mr. FLUTE. Thank you for the question, Madam Vice Chairwoman. It really depends on the road. I know as former chairman for my tribe, one of our road projects, it was about a 10-year project done in three phases. Again, it was done in about three miles, in about three years. That is because of the different compaction tests. If the compaction tests were good and there were rights-of-way established, I would think that they could be done in a matter of months.

But again, respectfully to you and the question, it really depends on the geographical landscape as well, too. We have seen 20, 30 years ago where there was maybe a slough is now maybe a little lake where the slough has turned into a marsh or those waterways have now expanded. So the funding formulas as well, too, I think have a big impact on tribes and I think that really needs to be visited, depending on the miles a tribe has and the need. I know with our tribes in South Dakota, we have thousands of miles of roads.

So thank you for the question.

Senator MURKOWSKI. Thank you.

Mr. FLUTE. I am sorry, Madam Vice Chairwoman. On the lending, I think an incentive would be to possibly consider long-term low interest loans with a percentage going to the lending institution. I know there are a lot of challenges there, but I think that would be one solution to offer on incentivizing the CDFIs. Thank you.

Senator MURKOWSKI. Very good. I appreciate that.

One final question, and this is directed to Mr. Rodman. Just pretty simply here, how can the White House help us in making sure that the agencies are thinking about how they are removing barriers to applying for Federal funding? Basically how do we cut the red tape here that oftentimes leaves tribes behind?

Mr. RODMAN. Vice Chair Murkowski, thank you. And thank you to the participants. This has been very informative.

The White House Council on Native American Affairs was designed to coordinate Federal efforts, Federal resources across the Executive Branch. We have Department of Transportation, we have HUD, we have HHS, we have EPA, DOI, of course, getting together to look at how to, as you said, Senator Murkowski, cut through that red tape. Housing is one of the areas that this interagency body is looking at. The leadership is committed to getting things done in short order and to really take to heart conversations like today, and from tribal leaders, and see what we can make stick for permanent changes, basically. Permanent, positive changes for simplifying processes, this constant coordination of resources doesn't happen naturally. So that is what we are working on to address the housing needs, the infrastructure needs that the panel is talking about today.

Senator Murkowski, it is really the focus of this interagency effort to make these Federal programs more efficient and to have more of an impact.

Senator MURKOWSKI. I hear way too often that it is the siloed world that we are all operating in, and that just further complicates it. As an appropriator, it seems to me we are doing a relatively good job in trying to get dollars out there. But when our programs aren't talking well with one another and it doesn't get translated out

there on the ground, whether it is in housing infrastructure, what we need to be doing on Indian roads, these are impediments.

So thank you for the responses. We need to be working together in that vein.

Thank you, Mr. Chairman.

The CHAIRMAN. [Presiding] Thank you, Vice Chair Murkowski.

I want to echo what Senator Murkowski said, the need for interagency coordination is one of the top line takeaways here. I hope that the White House and the Department of Interior and you personally, Mr. Freihage, can assist us with that.

We will have specific follow-on items. And for all of the participants, we really appreciated the really constructive conversation. This was designed not to be a hearing specifically so we could have a little bit more give and take. A little bit of the benefit of informality when we talk about the problems that Native communities are experiencing to have an opportunity to redirect some of those challenges right to you, Mr. Freihage, and you, Mr. Rodman, was really beneficial.

But what matters the most in my judgment is what we do next. So let this be the continuation of an ongoing conversation. I want all of the participants to feel that our door is open, our email accounts are open, and that we are anxious to get your guidance on what the American Jobs Plan should look like, what the American Families Plan should look like, what the appropriations process should look like, how NAHASDA should be not just reauthorized by improved, and how we can better represent Native communities across the Country and better serve Native communities across the Country.

So I want to thank everybody for participating in an incredibly constructive roundtable. This concludes our session. Thank you very much.

[Whereupon, at 3:43 p.m., the roundtable was concluded.]

Attachments

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

Thank you to Chairman Brian Schatz and Vice-Chairwoman Lisa Murkowski and all the Members of the Senate Committee on Indian Affairs for hosting this important roundtable on Infrastructure Development in Native Communities. The federal government has neglected infrastructure for health care in urban Indian communities for far too long, to the detriment of the 70 percent of American Indians and Alaska Natives (AI/AN) who reside in cities today. We hope you will prioritize the recommendations provided today as you work to fulfill the government's trust responsibility to provide health care for all AI/AN people, regardless of where they live.

The National Council of Urban Indian Health (NCUIH) represents 41 Urban Indian Organizations (UIOs) operating 77 facilities across 22 states. As part of the trust obligation, the federal government funds UIOs who provide high-quality and culturally competent care to urban Indian populations. UIOs are a critical part of the Indian Health Service (IHS) system, which includes IHS facilities, Tribal Programs, and UIOs. This is commonly referred to as the I/T/U system. Unfortunately, UIOs experience significant parity issues as compared to the other components of the I/T/U system as well as other federally funded healthcare systems, which greatly impact their services and operations.

NCUIH and 29 other AI/AN-focused organizations signed a joint letter urging Federal leaders to address Indian Country's infrastructure priorities. As outlined in further detail below, the letter includes several requests for infrastructure investments to help urban Indian populations receive health care.

Infrastructure for Urban Indian Organizations

Facilities Funding Restrictions

A restriction in the Indian Health Care Improvement Act (IHCA) prevents UIOs from making facilities improvements, impacting the provision of services to AI/ANs. Chronic underfunding of UIOs, without any facilities funding, coupled with this statutory restriction, have prevented UIOs from making necessary improvements to their facilities. This restriction has real and significant impacts. For example, as the COVID-19 pandemic was devastating Indian Country, the whole IHS system had to immediately adjust (i.e. transition to telehealth, install negative pressurizing rooms, upgrade air purification systems, and make other facility renovations) to safely serve patients. However, UIOs were prohibited from making some of those transitions due to this restriction.

The pandemic only compounded on an existing problem—the lack of an avenue for using existing resources for infrastructure at UIOs. In fact, in a NCUIH survey,

86 percent of UIOs report needing to make facilities and infrastructure upgrades, while 74 percent of UIOs report unmet needs for new construction to better serve patients. These needs include, but are not limited to, the construction of urgent care facilities and infectious disease areas, capacity expansion projects, ventilation system improvements, and upgrades to telehealth and electronic health records systems.

The Urban Indian Health Providers Facilities Improvement Act was recently introduced by Senators Alex Padilla (D–CA) and James Lankford (R–OK) (S. 1797) to allow UIOs to make critical updates and pave the way for increased investment in renovation and construction of UIO facilities by undoing this unnecessary restriction. This bill is a critical legislative fix of an oversight in Section 509 (25 U.S.C. § 1659) of IHCA that prohibits UIOs from using money appropriated to use on infrastructure and facilities improvement projects unless the project is undertaken to meet accreditation standards from The Joint Commission (TJC), which is no longer the applicable accreditation body among the vast majority of UIOs.

There is broad, widespread support for allowing UIOs to use existing resources to upgrade facilities. In addition to being included in the inter-organization Tribal infrastructure letter, a resolution passed the National Congress of American (NCAI) on June 24, 2021, “AK–21–020: Call for Congress to Amend Section 509 of the Indian Health Care Improvement Act to Remove Facility Funding Barriers for Urban Indian Organizations (UIOs)”. The President’s FY22 IHS budget and House Interior Appropriations draft bill included support for this legislative fix as well. We urge members of this Committee to take up this legislation and lend their support of S. 1797 on behalf of the 70 percent of AI/AN population who live in urban areas.

Health Care Facilities Construction

Another request in the inter-organizational Tribal infrastructure letter includes \$21 billion in infrastructure funds for the Indian health system including facilities funds for UIOs. We respectfully ask this Committee to ensure these necessary facility funds are provided to the Indian Health System including UIOs. In fact, according to IHS testimony on June 16, 2021, the total need for the Health Care Facilities Construction (HCFC) Program in an early draft reports indicates an increase in the need up to approximately \$22 billion amount.¹ However, this likely does not include UIOs as they are ineligible for the IHS facilities funds at issue. Thus, considerable investments in the entire I/T/U have documented need.

UIOs have traditionally been excluded from facilities and construction funds from IHS and are unable to receive funding from the IHS Health Care Facilities Construction Priority program, the Maintenance & Improvement IHS budget line item, or participate in the agency’s Joint Venture Construction Program. To be clear, there is no dedicated funding allocation for UIO facilities, maintenance, sanitation, or medical equipment, among other imperative facilities needs that have only been heightened in the wake of the COVID–19 pandemic.

Without access to facilities funding, like that available to IHS and tribal facilities, UIOs must use their already limited resources on facilities maintenance and necessary upkeep. UIOs have had to take out loans and collect donations to build and maintain health facilities for a growing population. Many UIO facilities are well beyond their anticipated and projected lifespan; adequately funding facility upkeep is essential to prolonging the usability of such facilities. For these reasons, significant facilities improvements and maintenance issues remain.

Equitable construction and facility support funding for UIOs can be accomplished by including language authorizing a new budget line item to address UIO infrastructure needs. Allowing the continued deterioration of critical health facilities goes against the federal trust obligation to provide quality healthcare to all American Indians and Alaska Natives. When patients and providers lack access to well-functioning infrastructure, the delivery of care and patient health is always compromised.

Extend Full (100 percent) Federal Medical Assistance Percentage (FMAP)

We also urge the Committee to provide parity in the IHS system by enacting permanent 100 percent FMAP for UIOs, which should give UIOs access to additional much needed funds. The average U.S. health care spending is around \$12,000 per person; however, Tribal and IHS facilities receive only around \$4,000 per patient. What’s more, UIOs receive just \$672 per IHS patient—that is only 6 percent of the per capita amount. This dismal amount of funding makes third party reimbursements, like those received through Medicaid, even more essential to UIO operations.

¹*Examining Federal Facilities in Indian Country*

Congress recognized the importance of Medicaid to the Indian health system in 1976, when it authorized the billing of Medicaid “to enable Medicaid funds to flow into IHS institutions. These Medicaid payments are viewed as a much-needed supplement to a health care program which has for too long been insufficient to provide quality health care to the American Indian.”² Since Medicaid services provided at UIOs have not been reimbursed by the federal government at 100 percent like they are for IHS and tribal facilities, UIOs receive fewer third-party funds. This limits their ability to collect additional reimbursement dollars that can be used to provide additional services or serve additional patients. In effect, the Federal Government only covers 100 percent of the cost of Medicaid services for AI/ANs receiving those services at an IHS or tribal facility and skirts full responsibility if an individual happens to receive the service in an urban area.

100 percent FMAP reimbursement for IHS and tribal facilities has enabled: (1) IHS and Tribes to receive higher rates (more reimbursement funds) for services, (2) IHS and Tribes to provide additional services, and (3) states to reinvest the money they have saved into the Indian health system. UIOs providing services to tribal members residing in urban areas have historically been unable to receive these benefits. The American Rescue Plan Act (ARPA) temporarily authorized 100 percent FMAP for services at UIOs for the next two years, which is a welcome start to achieving parity. However, a permanent fix is necessary for UIOs to realize benefits as to date, three months after the passage of ARPA, no UIO has received a single additional dollar. Moreover, the need for 100 percent FMAP does not end when the pandemic ends. We urge you to act and support legislation for permanent 100 percent FMAP for UIOs as is extended to all other Indian Health Care Providers (IHCPs).

Establish an Urban Confer Policy for HHS

Another priority included in the inter-organization Tribal infrastructure letter is a request to extend urban confer to agencies at the Department of Health and Human Services (HHS) for policies related to urban Indian health. Currently, only IHS has a legal obligation to confer with UIOs, despite the fact that numerous agencies implement programs that directly impact UIO operations. It is imperative that the many branches and divisions within HHS and all agencies under its purview establish a formal confer process with UIOs on policies that impact them and their AI/AN patients living in urban centers. Urban confer policies do not supplant or otherwise impact tribal consultation and the government-to-government relationship between tribes and federal agencies; but provide a key mechanism for engaging with the entire IHS I/T/U system. In fact, NCAI passed a resolution in support of urban confer in 2020.³

The COVID-19 pandemic has highlighted the reason why urban confer is so critical, as without designated urban confer policies, agencies operate as if only IHS has a trust obligation to AI/ANs. Throughout the pandemic, UIOs have had no way to formally engage with key agencies that oversee pandemic response such as the Centers for Disease Control and Prevention, the Department of Veterans Affairs, and the Substance Abuse and Mental Health Services Administration, and the Health Resources and Services Administration among others. This has caused an undue burden to IHS by requiring the agency to be present in all discussions regarding Indian Country, if the conversations even happen at all. It is imperative that UIOs have avenues for direct communication with all agencies charged with overseeing the health of their AI/AN patients. We respectfully request the Committee support legislation to require an urban confer policy with any agency that has jurisdiction over urban Indian health, including HHS and all of its agencies which will streamline efforts to support UIO facilities infrastructure and improvements.

Conclusion

These critical infrastructure needs are essential to ensure that urban Indians have access to high quality, culturally competent health care services. It is the obligation of the United States government to provide these resources for AI/AN people residing in urban areas. This obligation does not disappear amid a pandemic, instead it should be strengthened, as the infrastructure need in Indian Country is greater than ever. We urge this Committee to take this obligation seriously by providing UIOs with all the resources necessary to protect the lives of the entirety of the AI/AN population, regardless of where they live.

²H.R. REP. NO. 94-1026, pt. III at 21 (1976), reprinted in 1976 U.S.C.C.A.N. 2782, 2796

³Call for the U.S. Department of Health and Human Services (HHS) Secretary to Implement an Urban Confer Policy Across the Department and its Divisions

PREPARED STATEMENT OF CAROL GORE, PRESIDENT/CEO, COOK INLET HOUSING AUTHORITY

Dear Chairman Schatz and Vice Chair Murkowski,

Thank you for the invitation to participate in the roundtable with the Senate Committee on Indian Affairs “Concrete Solutions: Building a Successful Foundation for Native Communities’ Infrastructure Development.” I also thank you for your years of advocating for housing for America’s Native families. Your dedication has made a difference in the lives of our youth, elders, and working families. In the spirit of this roundtable I have organized this letter into three discussion questions that address conditions in Alaska, but are also broadly applicable to Native communities across the United States. Overall, the goal for an infrastructure package should be to remember that housing is infrastructure—we don’t need roads or water lines if there are no houses with people in them.

I. How important is housing to the Infrastructure of a village?

Native people across the United States simply need a safe, affordable and healthy home to thrive. When people thrive the village will also thrive. Investing in homes for our people is a critical piece of our economy. Given a choice between highways, bridges and housing—we would choose to build housing.

To put it simply, a village cannot survive without adequate, affordable housing. The safety officers, teachers, healthcare workers, and power plant operators who are essential for a village to survive need housing to live in themselves, in addition to having adequate housing for those who are locally born and raised. Without a decent place to live, these essential workers will not take jobs in villages. When speaking with law enforcement, school districts, and healthcare providers, housing is often mentioned as the number 1 impediment to attracting workers to remote Alaska. If these services are not provided, people leave the village in search of a better life. If young people are leaving, who will take care of elders with subsistence hunting and fishing? If a village cannot attract and retain those who are essential to their community, how can their village thrive?

Housing is the first piece of infrastructure in a village. Roads, water lines, power, and more do not exist to serve empty places. They serve people’s homes. But there is no private market in our villages. So without NAHAS DA, there is no development of homes in most of our rural villages. The funding appropriated under the authority of the Native American Housing and Self Determination Act (NAHASDA) is the primary and sometimes only funding source for development of housing that provides the support for northern climate construction and opportunity to adapt to the subsistence economics of village life. Support for NAHASDA funding is key for ensuring villages have an opportunity to bring the infrastructure needed to advance economic opportunity in rural Alaska.

Why does this matter now? It matters because housing, the first piece of infrastructure in a village, is overcrowded and inadequate in our rural villages. On a national scale, the 2017 *Housing Needs of American Indians and Alaska Natives* study from HUD tells us we need 34,000 homes to alleviate overcrowding and 34 percent of our homes have a major physical deficiency in tribal areas. Closer to home, the Alaska Housing Finance Corporation in their 2018 Housing Needs Assessment found that 40 percent of homes in the Yukon-Kuskokwim are overcrowded or severely overcrowded and 35 percent have incomplete plumbing. The overcrowding is so bad for some homes that 18 people share a small 3-bedroom home requiring people to sleep in shifts throughout the day for lack of surfaces for everyone to sleep at one. How can people sleeping the day shift ever hold down a job? How can children learn when their home is so overcrowded they have no place to study and they carry the stress and anxiety of their home life into school? How will those children grow up and have a job if they never had a chance to learn how to read and do math?

II. What can the Senate Committee on Indian Affairs do to help develop infrastructure?

NAHASDA is a great tool with good outcomes and yet we’ve been flat-funded. I urge you to consider three things:

1. Recognize that housing is infrastructure and Include NAHASDA as part of whatever infrastructure bill moves through Congress; and
2. Help correct the historical injustice of the HUD budget to bring equity to Indian housing; over the last 20 years, HUD’s budget grew more than 100 percent to \$56 billion while the Indian Housing Block Grant (IHBG) grew just 4 percent; and

3. Reauthorize NAHASDA. NAHASDA created programs that are not prescriptive or “one-size fits all” programs so tribes can use the funding authorized and appropriated to respond to the priorities in each village or community. We have a ready pipeline based on the needs of our villages. What we need is more NAHASDA funding.

Though increasing funding for ongoing programs is never easy, we are asking you to bring equity to HUD funding within Public and Indian housing. If we look to the inequity between HUD’s overall budget and the IHBG, we know that our Native people are being left behind. Informing the rest of Congress and the President of their obligation to follow through with equity in funding is the biggest opportunity to bring equity to the IHBG we have seen for some time.

We want our villages and Native communities to thrive. We know adequate and healthy housing can make a difference in our educational, health and social outcomes. But we are falling further and further behind simply because of flat and inadequate funding.

III. Are there other mechanisms that SCIA members can advance outside of NAHASDA to develop infrastructure in tribal areas?

A colleague told a gathering of the National American Indian Housing Council a few years ago that if they had just used NAHASDA it would have taken 100 years to accomplish what they had in the last 20 years. That statement reveals the power of leveraging NAHASDA funds with private capital and innovative financing to accomplish our goals for Native families. From our experience, the most transformative tool has been the Affordable Housing Tax Credit, formerly the Low-Income Housing Tax Credit. These tax credits marry private equity with mission-driven housing to increase the supply and quality of housing for people who earn a low income. As successful as they can be, their reach is limited when working with Native families. The small state minimum allocation allows only 2–4 projects per year in Alaska. Increasing the small state minimum would allow more projects to attract private equity. Including a basis boost for projects that serve Native people would also help increase equity available in high cost areas. Of the nine (9) states that receive minimum allocations of tax credits, five (5, Alaska, North Dakota, Montana, South Dakota, Wyoming) have a high Native population.

Another avenue for development lies with Community Development Financial Institutions (CDFIs), who play a major role in access to capital for Native people. Supporting legislation that increases targets for financial assistance to Native CDFIs increases the amount of assistance that goes to Native families and entrepreneurs. Whether for home loans, down payment assistance, or a business startup, Native CDFIs operate in a space targeted to people who are not served well by traditional finance.

Senators, the work to develop our Native communities is not easy but I thank you for your continued work to help our Native people. Please let me know if CIHA can be a resource for questions or dialogue on how to develop our Native communities. Thank you for the opportunity to share with you.

PREPARED STATEMENT OF THE UTE INDIAN TRIBE

Chairman Brian Schatz, Ranking Member Lisa Murkowski and members of the Committee, thank you for the opportunity to submit these comments in response to the Senate Committee on Indian Affairs’ June 23, 2021, Roundtable Discussion on “Concrete Solutions: Building a Successful Foundation for Native Communities’ Infrastructure Development.”

The Ute Indian Tribe has an extensive network of infrastructure across our Uintah and Ouray Reservation (Reservation). Our Reservation covers about 4.5 million acres making it the second-largest reservation in the United States. Our Reservation is larger than the State of Connecticut and infrastructure investments are needed to provide safe and secure law enforcement facilities and support, transportation, water sources, housing, and responsible and reliable energy resources to promote economic development in our communities and the surrounding region.

As you may know, the Federal government has chronically underfunded infrastructure in Indian Country. This is a failure and violation of the Federal government’s treaty and trust responsibilities to Indian tribes. In many cases, tribes have had to take matters into their own hands to make any progress on federal infrastructure responsibilities.

We look forward to making progress on a number of infrastructure projects and investments badly needed on our Reservation. Below, we provide an overview of our infrastructure priorities. Many of these projects have been studied for years and are

simply awaiting action. The Ute Indian Tribe supports your examination of infrastructure development in Indian Country.

Tribal Law Enforcement Facilities

In 2006, the Bureau of Indian Affairs (BIA) condemned its lone detention center on our Reservation. When our facility was closed, BIA committed to replacing it as soon as possible, and BIA placed the facility at the top of its law enforcement replacement priority list. BIA went so far as to complete a pre-planning study for a new facility with the Tribe. However, by the time the pre-planning study was completed, BIA had stopped funding law enforcement facilities construction, including detention centers and tribal courts.

After more than a decade on the BIA's facility replacement waitlist, and without a detention center, the Tribe took matters into its own hands. In close consultation with BIA's Office of Facilities Management and Construction, relevant Congressional Committees, using federal health, safety, and space utilization standards, the Tribe decided to use tribal funds to construct a new Tribal Justice Center.

In 2017, the Tribe opened its new \$38 million Tribal Justice Center. Construction of the facility was completed with only tribal funds. The facility includes over 105,000 square feet of space, spans over 15 acres, and includes 60 adult short/long term beds, 40 juvenile beds, and houses our tribal courts. The Justice Center meets all BIA and United States Department of Justice standards and program requirements to protect staff and persons incarcerated at the facility. However, and despite our investment in providing law and order on our Reservation, BIA has not yet provided the funding needed to fully staff and operate our Justice Center.

Staffing and Operating our Tribal Justice Center

Facilities construction is only half of the story. Once these facilities are constructed, BIA still needs human infrastructure to staff and operate facilities to meet tribal needs. Congress must take action to fulfill these important treaty and trust responsibilities. The agreements between the Federal government and Indian tribes were critical to the foundation and success of the United States.

The Bureau of Indian Affairs Office of Justice Services (BIA-OJS) administers law enforcement services for the Tribe as a direct service function. BIA-OJS was directly involved over a three-year period in the development and completion of the new Tribal Justice Center. However, now that the Justice Center is constructed and ready to operate, BIA-OJS still has not sought or provided the federal funding to fully staff and operate the Justice Center.

BIA-OJS provides just 5 full-time correction officers to run a 100-bed detention facility. This is unacceptable. BIA-OJS advises us that it needs a total of \$4,844,000 million to fully operate our detention center at federally mandated standards. This includes \$2,675,464 million for the adult wing and \$2,169,422 million for the juvenile section.

Even worse, until the Justice Center is fully staffed, BIA is forced to use federal funds to house many detainees in county jails. We have adequate space in our Justice Facility to take violent offenders, drug dealers, and individuals with outstanding warrants off our streets. Yet, every two weeks, BIA-OJS uses federal funds to send 30 or more adults to county detention facilities under a separate outsourcing contract with the county.

BIA's failure to adequately staff the Justice Center has also resulted in a situation in which our tribal judges are forced to release one prisoner to detain another. BIA law enforcement has told tribal judges that warrant enforcement must slow down because the United States cannot afford to house these offenders in county jails.

The lack of funding for these programs is also undercutting Congressional intent. We cannot enforce the Violence Against Women Act and the jurisdictional provisions of the Tribal Law and Order Act if our federal partners do not take adequate steps to ensure these staffing issues are addressed.

In anticipation of these very staffing shortages, the Tribe and BIA previously entered into a Memorandum of Understanding (MOU) under the authority of the Indian Law Enforcement Reform Act, 25 U.S.C. § 2804(e), to ensure that maintenance and ongoing operations would be funded for the Justice Center. Under the MOU, the Tribe funds various law enforcement officers who supplement existing BIA law enforcement services. Under the MOU, the Tribe has historically funded more than 50 percent of on-Reservation law enforcement operations. The purpose of the MOU was to provide "stop-gap" funding to cover these operations and management costs while the Tribe's Indian Self-Determination and Education Assistance Act, P.L. 93-638, funding contract was finalized and approved by BIA. This contract was never fulfilled.

In addition, while tribal courts have operated in BIA-funded buildings for more than 50 years, in the last ten years, the Office of Management and Budget (OMB) determined that the construction, operation, and maintenance of tribal courts is a tribal responsibility. OMB did this without any Congressional action and no tribal consultation. Tribal court programs are primarily funded under Indian Self-Determination and Education Assistance Act contracts, also known as “638 Contracts.” OMB did not take into account that a 638 Contract can be retroceded by a tribe to the Federal government at any time. As a result, there is no question that these are federal responsibilities.

Bureau of Indian Affairs Leasing Authority

BIA-OJS needs its own justice center leasing authority to fully staff our Justice Facility. BIA only has the leasing authority under P.L. 93-638, section 105(l) of the Indian Self-Determination and Education Assistance Act and, currently, this leasing and funding authority is limited to education and healthcare contracted or compacted services, not direct services that BIA-OJS provides.

BIA-OJS needs this authority to provide tribes with the option to use their own funds to speed the replacement of law enforcement facilities and save federal dollars. Under this authority tribes would be able to construct, with private funds, a law enforcement, detention, or tribal court building, with the assurance that the Department of the Interior and BIA will make every effort to request the funds necessary to lease, staff, operate and maintain that building after it is constructed. We did this through constant consultation with BIA-OJS, but now without independent leasing authority we are unable to fully staff and operate our Tribal Justice Center.

Investments Needed for Safe Drinking Water Infrastructure

The delivery of safe drinking water to our tribal members is of the highest priority for the Tribe. The vast majority of our members live on the Reservation and are provided with water for domestic, commercial, municipal, and industrial (DCMI) purposes by our Ute Tribal Water System (UTWS). Our UTWS service area covers roughly 175 square miles, including the towns of Whiterocks, Fort Duchesne, Randlett, Ouray, and other rural areas. We also operate a high school for our tribal members in Fort Duchesne, Utah. Through external connections, our UTWS is also the sole water supplier to the Ballard Water Improvement District, the Ouray Park Improvement District, and the Independence region of the Johnson Water Improvement District.

Our UTWS diverts and treats water from Whiterocks and Uriah Heap Springs, which is delivered by gravity through nearly 60 miles of pipelines and numerous valves, hydrants, and water meters. Each spring subsystem on the UTWS has its own water treatment facility. Whiterocks typically takes 100 gpm through treatment, while Uriah Heap takes about 700 gpm through its system. The Whiterocks Springs subsystem serves 115 connections with an average daily demand of 63 gpm. Uriah Heap has 815 connections and an average daily demand of 700 gpm.

In 2010, we asked an engineering firm to evaluate the conditions of the water collection systems at Whiterocks River and Uriah Heap Springs. They found that multiple improvements for environmental health and better water management within our UTWS were needed. Deteriorated conditions included vegetation growth and poor surface drainage in the spring areas, root intrusion, sediments, and cracking in collection pipes, a lack of water meters in the system, a need for increased water quality monitoring in the system, and unmonitored spillage of untreated spring water into local canals. Though customer water meters have since been installed and a new Uriah Heap treatment plant was built, not all recommended improvements have been fully implemented.

In 2014, another engineering firm observed or was made aware of the following concerns related to our UTWS:

- Continued poor surface drainage and vegetation in spring collection fields;
- Insufficient fencing around springs that could allow livestock to contaminate water sources;
- Rusted, leaking, or overflowing water storage tanks;
- Freezing or burst water pipes in the winter throughout the system;
- Vandalism of UTWS structures; and
- A strong need for a hydraulic model to understand water flow within the system.

Despite these issues and our requests for support, the Indian Health Service (IHS) has not been able to fund and install spillage meters needed at both springs for several years, and individual water meters are not read; as a result, both users and external connections pay only a flat monthly water rate regardless of use. Al-

though we appreciate the technical support that IHS has been able to provide, most of its limited infrastructure or construction funding goes towards drilling domestic water wells for individual tribal members. As a result, our UTWS has continued to suffer from a lack of maintenance, rehabilitation, and expansion funding.

Due to chronic underfunding for our UTWS, we have had difficulty maintaining, providing, and ensuring that our tribal members have access to safe drinking water. Since 2018, we have made a concerted effort to improve our internal monitoring and auditing procedures related to the quality of the water delivered by our UTWS. However, the lack of consistent and available funding sources to rehabilitate, improve, and expand access to our UTWS remains a significant and serious issue for the majority of our tribal members.

Investments Needed for Water Storage

The need for water storage on our Reservation has been clearly and repeatedly documented for over 100 years. Indeed, it is well known that irrigation and other related tribal water projects cannot be successful in an arid environment without water storage infrastructure. The Federal government has acknowledged, on many documented occasions, its obligation to manage water projects through storage facilities, yet the Tribe continues to face water storage deficits on a regular basis.

It is unbelievable that our Reservation homelands were established in this arid region and we still lack a water storage facility to support our municipal, irrigation and water development needs. Meanwhile, the non-Indian residents of Utah are served by the Central Utah Project—one of the largest water storage and delivery projects in the United States. Because of these documented water shortages, the Tribe has sought to develop viable, environmentally sound storage facility options that will regulate the flows of Reservation streams and provide an ample and dependable water supply for the Tribe. Storage, combined with natural flow, is the only way the Tribe can fully develop its irrigation system, provide for our members, and put our reserved water rights to use. We ask that the Federal government make good on its commitment to provide the water infrastructure promised and needed for our homelands.

The ability to store water is vital to our Uintah Indian Irrigation Project (Project). The Project is one of 16 Indian Irrigation Projects that the BIA is directed to manage in support of the Federal government's trust responsibilities, and to create economic development opportunities on our Reservation through agriculture. Our water users pay annual operations and maintenance fees, but chronic underfunding of the Project has resulted in layers of problems. Current problems are well documented and include decades of deferred maintenance and the need for repair and replacement of diversion structures, canals, laterals, and ditches to bring the deteriorated infrastructure up to current standards. And, as noted, the Project lacks the basic storage that irrigation systems rely on to regulate the natural flows of the rivers and the rehabilitation and betterment of our Project.

We ask that the Congress honor and fulfill the United States' treaty and trust responsibilities to support our critical need for water storage infrastructure. Storage infrastructure is needed to support and provide for the Tribe's Reservation homelands in Utah. Actions are needed to improve BIA's management of our water irrigation projects and to secure funding that will enable us to get the full economic benefit of our Indian reserved water rights.

Equity for Indian Housing

In 2017, the Department of Housing and Urban Development (HUD) published a five-year study on the housing needs of American Indians and Alaskan Natives. The study found that conservatively, Indian Country needed over 68,000 housing units, not including the existing units that included over 34 percent of households having severe infrastructure deficiencies, such as inadequate plumbing, heating, and electrical issues, compared to U.S. households.

The program that funds Indian Housing, the Native American Housing Assistance and Self Determination Act of 1996 (NAHASDA), revolutionized how housing assistance was provided to Indian Country. The two programs authorized for Indian tribes under NAHASDA are the Indian Housing Block Grant (IHBG) and Title VI Loan Guarantee program. This critical infrastructure law has been expired since 2013 and has continued to be flat funded year after year.

However, Congress needs to correct the historical injustice Indian Country has seen since the passage of NAHASDA. In the 25 years since the NAHASDA was authorized, HUD's annual budget has grown more than 50 percent to more than \$56 billion; at the same time, the Indian Housing Block Grant, the primary funding component of NAHASDA, has only grown 4 percent from \$440 million to \$650 mil-

lion. When adjusted for inflation, Indian Country has seen a net loss since first being funded; \$650 million in 2021's dollars equate to only \$393 million in 1998.

That fact is not lost on Indian Country. Tribes had been fighting for permanent reauthorization for NAHASDA well before the law expired in 2013. Additionally, the general HUD budget has an additional component NAHASDA desperately needs. HUD is immune to inflation as a result of an automatic 2 percent inflation adjustment every year, while NAHASDA is subject to the whims of Congress. Indian Country needs Congress to reauthorize NAHASDA permanently including the automatic inflation adjustment.

Support for Tribal Gas Fired Power Plant and Generation Facilities

The Committee and Congress should provide additional support for Indian energy development and related infrastructure. Energy projects bring other types of infrastructure development to often remote or rural Indian reservations. To develop large scale energy projects, we need roads and bridges. We also need federal laws and programs that provide access to financial capital.

We have a long history of responsibly developing energy resources on our Reservation homeland. The Tribe relies on revenues from energy production to fund the Tribe's government and provide services to its membership. However, on the power generation side, a sizable portion of the electricity generated on and serving communities on the Reservation is generated at the controversial coal-fired Bonanza Power Plant. Based on EPA data, the Bonanza Power Plant emitted over 5,300 tons of ozone producing NOx into the atmosphere along with over 1,400 tons of SO2 and 4,100,000 tons of greenhouse gas CO2.

The Tribe is currently developing an energy generation hub on the Reservation utilizing clean energy resources. The core of the energy generation hub will be a natural gas-fired power plant on the Reservation. This facility will be developed as a combined cycle power generation plant consisting of up to approximately 550 megawatts, using currently untapped Tribal natural gas resources, together with (i) electric distribution lines and natural gas pipelines, and (ii) all ancillary systems required for stand-alone operation (e.g., water treatment plant and cooling system). This project would also include a substantial solar photovoltaic (PV) component designed to generate up to 150 megawatts.

Completing this Tribally-owned energy generation hub would mark a critical step in establishing a Tribal electric utility service. The primary incumbent utility that provides electric power to the Tribe and its members on the Reservation is a non-Tribal electric cooperative, and most of the electricity delivered by the incumbent utility is generated by the coal-fired Bonanza Power Plant. Establishing a Tribal utility is an act of self-determination, and also a means of creating a system that will (i) enhance natural gas development on the Reservation, (ii) decrease the Tribe's reliance on a state-based utility authority, and (iii) potentially attract other outside businesses wishing to take advantage of business incentives associated with utilizing a Tribal utility.

The Tribe is currently working in partnership with a project developer with considerable experience in the power generation and marketing industry. Currently, the project is advancing through its "Phase 3" predevelopment phase, which includes load and transmission studies, preliminary engineering designs, and completion of financial models. Completion of this phase will allow the Tribe to advance this project toward the execution of transmission and power sales agreements.

The Tribe plans to continue dedicating considerable time and resources toward the advancement of this project. The Tribe requests support from Congress to help put the Tribe in the best position to bring this important project to fruition. In particular, to support Tribal financing of utility scale energy projects, legislation is needed to expand Tribal Economic Development Bonds, the BIA Guaranteed Loan Program, and the Department of Energy Indian Energy Loan Guarantee Program. Congress can also create additional incentives to finance or utilize power generated using Tribally-owned facilities on Tribal lands.

Conclusion

The United States and Congress have obligations based on treaties, agreements, and the Federal government's trust responsibility to meet these basic infrastructure needs. Like many tribes, the Ute Indian Tribe needs Congress to provide significant funding to finally meet these obligations, particularly as we all work to recover from COVID-19 pandemic. When tribes take the initiative to build and fund their own facilities according to federal standards, our federal partners, in particular BIA, need Congress to provide adequate funding and support us and ensure the proper operation and investment in infrastructure.

Thank you for the opportunity to submit these comments.

U.S. SENATE COMMITTEE ON INDIAN AFFAIRS—ROUNDTABLE DISCUSSION ON CLOSING THE DIGITAL DIVIDE IN NATIVE COMMUNITIES THROUGH INFRASTRUCTURE INVESTMENT—WEDNESDAY, JANUARY 12, 2022

The Committee met, pursuant to notice, at 2:33 p.m. in room 628, Dirksen Senate Building, the Honorable Brian Schatz, Chairman of the Committee, presiding.

Present: Senators Schatz, Murkowski, Cantwell, Tester, Cortez Masto, Smith, Rounds.

The CHAIRMAN. Good afternoon. Can everybody hear me? Great.

Welcome to today's roundtable. I apologize for the delay in getting online. The roundtable is entitled Closing the Digital Divide in Native Communities through Infrastructure Investment. I want to thank everyone for participating and logging on.

Today we are going to hear about how the investment in broadband infrastructure is helping to close the digital divide, especially in Native communities. On December 22nd, the White House announced \$10 million in awards for the deployment and expansion of broadband infrastructure to deliver highspeed internet in Native communities. This investment through grants issued by Commerce, Treasury, and USDA is in addition to the over \$3 billion in broadband funding to be awarded through the Infrastructure Act of 2021.

I will kick things off with some questions in a minute. Actually, we are going to first go to Jon Tester, who has to chair the Veterans Affairs Committee after we introduce our panelists. For panelists, members will be able to see you on WebEx and call on you accordingly. I would ask that you remain on mute. Panelists should feel free to jump in any time, even if a question is not directed to them. This is designed, although it is on the internet, to be a little bit more of a free-flowing discussion. Please also identify yourself so the court reporter can accurately pick up who is speaking.

Let me take the prerogative to introduce our guest from Hawaii, Donavan Kealoha, CEO and Co-Founder of Purple Mai'a, in my home State of Hawaii. Aloha, and welcome.

Senator Murkowski, are you online to introduce your guest from Alaska? If not, I will go ahead and walk through all of the panelists, then we will get right into the conversation.

We have Ms. Hallie Bissett, Executive Director, Alaska Native Village Corporation Association, and Chair of the Alaska Broadband Task Force. We also have the Honorable Manuel Heart, Chairman of the Ute Mountain Ute Tribe, Towaoc, Colorado. The Honorable William Smith, Chairman and Alaska Area Representative, National Indian Health Board. Walter Haase, General Manager, Navajo Tribal Utility Authority, Fort Defiance, Arizona. Ms. Carrie Billy, President and CEO of American Indian Higher Education Consortium. And Mr. Matthew Rantanen, Co-Chair of the Subcommittee, Technology and Telecommunications of the National Congress of American Indians. Welcome to you all.

I have a brief opening statement, very brief. When it comes to the internet and accessing the internet to bridge the digital divide, Native communities face specific challenges. High costs, especially remoteness, inadequate basic infrastructure, and the high cost of hardware continues to make this divide tougher in Native communities than really any other place. That is why Congress' recent authorization sending billions of dollars to help Native communities invest in broadband infrastructure is simply a game changer. But we have to get this right. That is why we want to hear from all of you.

Vice Chair Murkowski, I would welcome any opening statement from you. If not, I am going to go ahead and kick it right to Jon Tester so that he can ask his questions and move on to his obligations to share the Veterans Committee.

Senator TESTER. You are very kind Mr. Chairman. Don't let the background fool you, I am not in Hawaii. I am sitting in my office.

I do have a couple of questions. I appreciate the flexibility here.

This is for Mr. Rantanen. Infrastructure, jobs, investment in the Jobs Act has historical investments in tribal broadband that is going to help close the digital divide, especially in Indian Country. Yet I will tell you and I think you know that billions of dollars in funding doesn't mean a doggone thing if we are not prepared to work with the tribes, and the tribes aren't prepared to work with us to make sure that the funding is effectively implemented.

What recommendations does NCAI have in ensuring that the broadband funds in the Infrastructure Bill are implemented properly? Do you have any recommendations that you are giving to the tribes?

Mr. RANTANEN. Matthew Rantanen, National Congress of American Indians. The recommendations are to, if you don't have relationship with your State government,

to develop some of those State relationships around broadband. Because as we are seeing in many States like California and some others, they are actively pursuing broadband solutions at the middle mile level to bring connectivity into the regions, the rural regions where the tribes are. The tribes should be in those conversations and those development projects to be able to understand the benefits coming to them. Then through the Federal funding that they are getting, the benefits of them working with the State to work together and stretch that dollar and make sure that they get connectivity out of that. So, State relationships are key.

Senator TESTER. I agree with you. I appreciate that perspective, because I think it is key. Hopefully you can continue to push your membership to work, and of course, it goes both ways. The consultations from the States and Federal Government is also critically important as we move forward to make sure that everybody has broadband access.

The next question is for Chief Smith. I come from Montana; I can go for hours in between health service areas. I know the importance of telehealth. Quite frankly, I think it is a real opportunity to serve some of our rural and remote areas in a positive way. However, from our tribal constituents, I have often heard how they have a hard time accessing telehealth due to a lack of broadband in their areas. This was especially evident during the start of the pandemic back in 2020.

Chief Smith, I understand that NIHB has been working closely with the tribes to increase access to telehealth. Can you describe how funding has helped increase that access to telehealth, and what else needs to be done in this space?

Mr. SMITH. Thank you for that question. This is Chief Bill Smith. I am also a Vietnam vet. I would like to talk a little bit about some of the things in the VA and the Indian Health Service. Yesterday, I was on an interview with the VA about a new system they call the VA Navigator. They gave me a scenario about how would this work. The bottom line is, it is one veteran talking to another veteran to get the system to work. Because the only way to navigate the VA system is to actually be there and do it, and then help your brothers and sisters through it.

So if they follow through with this new navigating system for the telehealth, it would be great. But like I told them, I said, it is the most important job that anyone has at the VA, is realizing that their job is to serve the veterans. Because they have earned every right that they have.

With that being said, a lot of times at the VA the people just say, oh, I just have a job. Well, no, your job is to serve the veterans and give them the help that they need.

Telehealth is one way to do it. I experienced telehealth myself when I had a doctor in Idaho. Even though I had to drive 300 miles up to the VA deal to talk to my doctor in Idaho, if I was able to talk to that same doctor from my home, I would not have to take a 300-mile trip one way. Like you say, the weather has been so bad that houses and trucks and everything have been blown off the road between Palmer and Anchorage.

So making that journey, and the long distances, the telehealth would be a much-improved way for not only veterans, but American Indians and Alaska Natives over our rough terrain. There are many, this new bill that Senator Schatz has about the Connect Health Act, Americans Indians and Alaska Natives, that would work great.

And working with telehealth between the Indian Health Service and the VA, it would work if you could speak to each other, and it would cut the costs down. Because when I go see the VA, I have to hand carry my paper to them. I will just use an example, hey, let's get a blood test, because you are a diabetic, you are a Vietnam vet, this is with all the stuff, Agent Orange exposure. I said hey, I just did that the other day over at the Indian Health Service. Why can't that record cross over? Why can't we be able to speak to each other and get the services that we need and cut the costs?

That is the biggest thing. If I have to take a \$1,500 blood test at one place, and I know it is the same at the other, plus driving as far as I have to drive, if I could get telehealth services, I can go to my local clinic and get the same blood draw, and they can get the blood to them and then cut the costs.

I hope that answers your question.

Senator TESTER. It does, and I want to thank you for that. Just from a VA-Indian Health standpoint, I know Senator Rounds is on this Zoom call, this is a big issue for us to have a Native American population and large VA populations. You are right, there is a lot of overlap and there is a lot of unnecessary duplication. We will continue to push that envelop with McDonough and everybody else we can.

Thank you, Chief. I appreciate it. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Chairman.

Now we have Vice Chair Murkowski for a brief opener and any questions.

Senator MURKOWSKI. Chairman Schatz, thank you. I am reminded, this is a good conversation about broadband. We all know that oftentimes when it comes to broadband, you can have the connection, but you need technical support. So I spent the first seven minutes here trying to get on while you were all there. I could hear you talking but I couldn't see you and you couldn't see me. So it is just a reminder, we have a lot of work to do.

Mr. Chairman, I have a pretty fulsome opening statement that I am going to submit to the record. But to just very, very briefly recap, we have an historic moment in front of us when it comes to the opportunities that we have put in place legislatively with the bipartisan Infrastructure Bill as well as the CARES Act funding that we are directing toward broadband, and specifically toward tribal broadband.

The fact that in the CARES Act money there was an \$8 billion tribal set-aside just was the initial round, and of course, all that has been put in place within the Infrastructure Bill, an unprecedented \$65 billion for broadband, with an additional \$2 billion for the tribal broadband grants, the tribal eligibility.

So what we are looking at is the largest investment in broadband deployment and adoption in this Country ever, which is significant. We know the divide is there and the divide is very real.

For my colleagues, I would just point you to the situation that we face in Alaska, with our rural Alaska and our Native villages. According to the FCC, 98.8 percent of urban areas have broadband access of 25 megabits per second download, and 3 upload. But just 79 percent of people on tribal lands and only 69.9 percent in Alaska Native villages have this access.

So for us, when you have heard me kind of pound the table and say, we need to be doing more in the broadband space, and we need to make sure that we have these tribal set-asides, and we need to make sure that it is not only going to be the underserved, but the unserved. And not only noting that, but recognizing that when we haven't addressed the issue of affordability, we haven't done anything to improve the access.

In some of the communities, some of the villages that I have, they might have access to internet. But if costs \$300 a month for 10 megabytes download, you are just not going to sign up. So you may as well not have anything at all. Affordability is something that we have to address.

So the purpose of today's roundtable is to collect those insights from so many of you that are involved, recognizing how we are going to not only work to help provide for better health outcomes as my friend Chairman William Smith has mentioned. Bill knows all too well the value that telehealth brings. But it is in distance learning, it is in the education side, it is in how we are going to be able to connect for purposes of commerce. All of this comes together into one when we have accessible, affordable broadband.

So I want to again thank Chairman Smith, with the National Indian Health Board here, and about these Native tribes for being part of today's conversation. But also, to a great leader back home, Hallie Bissett, she is the Executive Director of the Alaska Native Village Corporation Association. She has been the Chair for the Alaska Broadband Task Force. They just recently released their report on how to connect Alaskans with broadband. So I know she is going to have a lot to contribute to the conversation.

Mr. Chairman, I will wrap my opening. I will submit my full comments for the record.

[The prepared statement of Senator Murkowski follows:]

Senator MURKOWSKI. But if it is appropriate at this point to ask a question of Hallie Bissett, or I can wait until you want to call on some other members.

The CHAIRMAN. Let me try to squeeze in Senator Cortez Masto right now, because she has something else in five minutes. Then I will go right back to you.

Senator MURKOWSKI. Great.

The CHAIRMAN. Senator Cortez Masto.

Senator Cortez Masto. Mr. Chairman, thank you so much. Thank you for putting this panel together.

I appreciate the comments from Senator Murkowski and Senator Tester about telehealth. We all know, and this has been my biggest concern as we are trying to bring broadband access and internet access to so many across the Country, that there has been dollars in the past that we have appropriated, but it just didn't get to where it needs to. Now, with the bipartisan work of the Senate and Congress, there is really over \$42 billion going to States to help this connectivity.

Here is my first question. I am going to open it up to the panel, because I am curious about this. My biggest concern is to make sure that, at a Federal level, there is cooperation with Federal agencies to really be able to streamline, simplify the application process and better oversight of the Federal broadband support programs.

With the support of my colleagues, I was able to pass, in 2020, the Access Broadband Act. Really what it did, it required the National Telecommunications and Information Agency to establish the Office of Internet Connectivity and Growth for the very reasons I just talked about.

What I would like to hear from the panelists, as we look to get this funding out there and get it into the communities and our tribal communities, where they are underserved and we need the connectivity, I am curious right now the level of coordination that you see happening between the various agencies of the Federal, State and local.

What do we need to be aware of, to keep an eye on here at a Federal level to make sure that coordination works, it is streamlined, and it is getting to all of you? There is some money that has been set aside specifically, and Senator Murkowski talked about this, \$2 billion for our tribal communities. But the tribes are going to be able to access more of that money that we have allocated besides, outside of that \$2 billion. I want to make sure we are streamlining this to make it easy for all of you.

So I am curious, what do we need to know right now? Are there barriers? Is there a lack of coordination right now? What are you seeing that we need to be aware of?

I will just open it to the panelists. Does anybody have any comments?

Mr. HEART. This is Chairman Manuel Heart from the Ute Mountain Ute Tribe in Colorado. You have a good question there. I think the rural areas of tribes, not all tribes have a land base. My tribe is in the very southwest corner of Colorado, but we expanded to New Mexico and Utah. We have two communities which are very rural.

Even though it is that close to the nearest town, it is 15 miles, we have no black fiber that even comes close. Right now we are on a lot of remote satellite type. Our government departments are at maximum capacity right now. Our servers need to be replaced. But going back to what the NIHB representative was talking about, telehealth is something, even though our clinic is closed to in-person, it is hard for us to even get any kind of appointments, whether it is dental, vision, regular health. Even those just right here in our community, based on what is going on with COVID.

So as we start to look at what is going on with partnerships in the State of Colorado or New Mexico, or Utah, we need to be able to have that communication. We do have a good communication with the State of Colorado, the Colorado Commission of Indian Affairs. There are only two tribes in Colorado. In Utah, we have eight, but we have a little bit of a hard time working with the State of Utah to try to get things moving. So each government is different.

As for rural areas, it is pretty hard to even get things going on the education side with the online learning. Right now, we have had to put in some hot spots where parents have to bring their students to a parking lot just to access internet. I live two miles outside the community. I have to come back into the community to access internet for me personally. I can't do work at home, so I have to come back into the tribal office to get some work done.

So areas of concern are telehealth, education, access to just general stuff that is happening in the community. But we have no fiber that comes straight into the community of our reservation. We are not in an area where we live wherever we want. Our land base is 600,000 acres, but it is goes down to two communities, one in Colorado, and one in southeast Utah.

So we have to try to find ways and dollars to get internet to each one of the homes. We don't have that access right now. We do have some outside companies that do satellites, but those are unreliable. They get locked into a contract for two years, and whatever service they provide, it is hard for them. So just a quick comment, Senator.

Senator Cortez Masto. Chairman Heart, thank you. It is the same thing I hear in my State, in our rural communities and our tribal communities as well.

Ms. Billy, did you have a comment?

Ms. BILLY. Yes, I did, thank you. Thank you very much.

I want to just mention a kind of area where the tribal colleges and universities have a conflict with State laws, where some State laws are making it difficult for tribal colleges to join the national higher education research and education infrastructure through State and regional education and research networks.

It is somewhat complicated, so I don't want to go into a lot of the details here. I will just say that the United States has developed a very sophisticated research and education network cyber infrastructure. It is made up of these State and regional networks that are all connected together by internet, too.

So although most of the institutions of higher education in the Country are connected to these networks, only 10 of the 35 accredited tribal colleges are. One reason has to do with cost. So we have a plan for that, especially for colleges that are located close to these networks.

But the second reason is because of outdated State laws. There are some States that have very old laws that prohibit or limit public or government-owned networks. These are networks that would be much more affordable, that are very secure, that sort of thing.

So even tribal colleges on tribal lands in these States that have these laws that prohibit or limit public or government networks, they can't join regional research and education networks. So we think Congress should really look at this situation, these State laws, and consider excluding tribal colleges and tribal lands from any State laws that prohibit public or government-owned networks.

Senator Cortez Masto. Thank you. That is the first I have heard of that. Thank you, very helpful. I appreciate that.

Mr. Smith, and I don't want to keep everybody here, but Mr. Smith, I saw your hand up, is that right?

Mr. SMITH. Yes, this is William Smith, from the National Indian Health Board. Yes, we should make sure that there are not reporting barriers for these grant funds. We appreciate the change that Congress made to the tribal broadband connection program during the tribal consultation on establishment of the funds. Tribes had to remind the NTIA not to restrict the type of technology that tribes can use to establish connections.

In rural Alaska, we know that technology moves quickly. When Federal agencies restrict the technology of landlines or fiber, it limits our remote communities in Alaska where putting in the infrastructure can be costly and prohibitive. Increasing tribal involvement in planning can help improve some of this.

Like I said, you all know that Alaska is so big and everything else that we can't get into places. We have three mountain ranges, a long chain to follow. It is hard to access fiber.

Senator Cortez Masto. Thank you. I appreciate that.

Mr. SMITH. Thank you.

Senator Cortez Masto. We have heard similarly from Senator Murkowski as well. Thank you, everyone. Mr. Chair, thank you.

The CHAIRMAN. Thank you, Senator Cortez Masto.

We will move on to Senator Murkowski, followed by Senator Cantwell. Before we move on, I want to encourage all of the staffers who are watching or monitoring this conversation to get their heads together after all the notes are taken and the record is created to figure out what are the action items, collectively, on a bipartisan basis, for this Committee.

Senator Murkowski.

Senator MURKOWSKI. Thanks, Mr. Chairman. I appreciate that. I think we are going to have a fair amount of follow-up here, but we have some good folks who are part of the call to work with our staff. I appreciate that.

Hallie, I wanted to ask you, I have detailed a little bit of the challenges in Alaska. Chairman Smith has outlined them just now in the response to his question, recognizing that for us, you really do have to be somewhat technology neutral. We would all love to have fiber. That is the gold standard. But I think we recognize that we have challenges in being able to get that, not the least of which is the extraordinary cost and the time involved.

What I would like to hear from you, and I would like others to be thinking about responses as well, I noted that there are historic amounts of Federal funding that are coming toward tribes around the Country, what that means for us in a place like Alaska. But we also have these Federal dollars that are coming to the State that are separate from the tribal dollars. But I think there is a recognition that a level of coordination is going to absolutely be key, particularly to build out this infrastructure in areas where we really don't have anything right now.

Can you speak to perhaps some of the recommendations that you would share on how there can be enhanced coordination between the State, the tribes and the ANCs as we are working to close this rural divide, this digital divide in rural Alaska? I think for the others, it is also an important thing to be focusing on, is how our tribes are coordinating with other entities. Can you speak to that? Again, thank you for the work that you have done on this thus far. It is a big, big task.

Ms. BISSETT. Thank you, Senator Murkowski. I would like to start by thanking everybody who is on this call, both the advocates that spend time advocating for this historic amount of money, and the Senators themselves who got this through.

NCAI itself I have heard has received over \$8 billion in requests for money. We know that the need in Indian Country is huge. I think I want to spend just a little

bit of time going over just the sheer size and remoteness of Alaska. I won't spend a whole lot of time, I am not going to write you a book. But I need you to understand that by far, Alaska, by any measure, is the most challenging place to ensure ubiquitous delivery of high-quality broadband services. It is true of both the assessment of the broadband needs and in the closure of the coverage gaps once those needs are identified.

Because of the status of the largest State of the United States, we comprise over 600,000 square miles. That is more than the area of Texas, California, and Montana combined. The challenge of extending robust broadband infrastructure into every community is substantial.

Just to give you an idea, it is 2,261 miles wide at its broadest point, which is roughly the distance between New York and Las Vegas, and north and south we are 1,420 miles long-wide, roughly the distance from Miami to Augusta, Maine.

So the majority of Alaska's population resides in just four boroughs, and that is in kind of the south central, southeast areas, Juneau, Anchorage, Matanuska Borough, and Fairbanks. But the complexities really come in, not only with the geographically vast distances that separate communities in Alaska, but with the land ownership. A lot of the land is owned and operated by Federal agencies such as the USDA Forest Service, the Department of Interior Bureau of Land Management, the U.S. Department of Defense.

In addition, this vast area is also managed by State entities, including the Alaska Department of Transportation, the Alaska Department of Natural Resources, the Alaska Railroad Corporation. And of course, we can't forget the private ownership thrown in, and thank goodness for this as well, of right around 10 percent of the land that is owned via simple title by the Alaska Native people, via the Alaska Native Claims Settlement Act.

So such complex and significant land ownership structure by the government and by the State and by Alaska Native Corporations really demands coordination. We are grateful for the work that was put in by the Senators to make sure that States are creating these broadband offices to coordinate with the Federal Government. One of the things that we are hearing out there, to Senator Cortez Masto's question, is the amount of time that it takes to get permits on Federal land. That same problem exists in the States and certainly requires coordination with private landowners as well. Coordination is going to be key to deploying some of these funds.

The FCC right now, the way it gathers data, really doesn't show the real need in Alaska. Because of the way they are gathering the data, it will show things like, I think somebody had mentioned 98.8 percent of the State has access to 25.3. Well, that is actually untrue. It is just because of the way that they do census block areas that it comes through that way. In fact, around 70 percent of Alaska Native villages, 233, 233 of our communities do not even have 25.3 service. That is unserved, everybody, unserved, not underserved. Those are all Alaska Native villages.

So the skewed results are going to continue. Luckily, we have, according to the broadband report, we already went over that. But fortunately, FCC is in the process of implementing the Broadband Data Act, where they are going to get better access to better mapping and reporting. But that in and of itself is going to stall the process to get this money out the door. We are looking at 2022 to 2023 to even get verification from the FCC on where the actual need is going to be.

But you are going to see that Alaska is going to be one of the highest areas of need. So we are excited to look at the data a little bit differently to really show the need. Just like the gentleman mentioned before, the longer this goes on with absolutely no fiber and no middle mile network into our villages, the more pronounced the problem is going to be.

It is extremely challenging to deploy. We have mountaintops, we have this vast area. Eighty percent of our State is not accessible by road, so you are using airplanes, you are using boats. You have all this mountainous terrain, you have permafrost, you have all kinds of things going on, towers that are powered by diesel fuel.

So we continue to need help from the government in areas like operational expenses, capital expenses. That is going to continue into the near future. When it comes to middle mile connectivity or backhaul, we only have a few critical areas to have that in. I can give you some examples, but like I said, I didn't want to go on and on. I am happy to answer questions about where our middle mile is.

But in terms of coordination, I think the Denali Commission is going to be extremely important in coordinating with Federal agencies and State agencies. We are looking forward to the State of Alaska establishing a broadband office in order to get all of the data that we are going to need in one central location to provide more transparency around where this money is going. We are looking at things like, how can we make permitting easier, and in terms of tribal relationships, that couldn't be more important to someone like our organization.

So ANVCA, the State of Alaska, the Alaska Federation of Natives, are going to continue to be working together over the next several years to ensure that the tribes are at the table having a voice, and hopefully having a portion of this that they can invest in. Because long-term utility grade investments are really good for a Native Corporation that is charged by Congress, by yourselves, for providing for our people in perpetuity.

I have so much more to say, but I will leave it at that, because I think I answered your question, Senator.

Senator MURKOWSKI. You did. You have a lot going on there. I do think this issue of how we coordinate really to maximize, when you talk about the challenges of building this out in a State as vast as Alaska, I think we recognize that as much as we can do jointly for mobilization efforts, that is going to work to get better value for your dollar.

I do think we are going to be faced with an issue of workforce capacity. I think we are going to be faced with some supply chain issues. The last point I will share here, as you mentioned, the role that the ANCs may play, perhaps some level of equity so that we are really talking about ongoing sustainability here. I think that is something that really builds this out from a legacy perspective.

So it is not just a construction job, it is not just building the infrastructure, it is ongoing from there.

Mr. Chairman, I will turn it back to you. Thank you, Hallie.

The CHAIRMAN. Thank you, Vice Chair.

Senator Cantwell?

Senator CANTWELL. Thank you, Mr. Chairman. Thanks for holding this really important hearing on such a timely topic. I have really already enjoyed listening to the witness. I think they have clearly outlined the challenges we face in Indian Country, particularly the unique situations of the States of Hawaii and Alaska, where really strong middle mile infrastructure is needed.

I don't know if Carrie knows the answer to this question or not, but your comments, I know Washington established a high-speed education connectivity between Washington and Alaska. I think we did that in 2001. So I have always wondered why my colleague from Hawaii couldn't get a similar situation as a ring infrastructure around Hawaii so that they could use that for their educational connectivity.

So besides this issue you just brought up about making sure that tribes basically aren't penalized by the law, what are some of the other problems with establishing these high-speed broadband networks? Then to our witness from Alaska, if Hallie could talk a little bit, it is almost like Alaska is so unique in the context of the density is within the villages. But we have to figure out a way to get the middle mile built. Most of America, there is a lot of connectivity, but people just don't want to go the last mile because it is not economically beneficial to them. In Alaska, we almost need its own unique mapping infrastructure. I want to know if you think any of the Federal dollars allow for that.

I could ask Washington-oriented State questions, too. But I think I have a pretty good handle on this, and as the Chair of the Commerce Committee who has oversight over NTIA, I want to make sure that we are getting this right. I care immensely about getting this right in Indian Country in my State. But we have really, really unique problems in Alaska and Hawaii that I want to make sure that this legislation is used in the right way.

So if Carrie and Hallie could answer those, that would be great.

Ms. BILLY. Yes, thank you. I also want to reiterate thanks to all the Senators and yourself who worked so hard to make sure that Indian Country was included in these bills. We really, really appreciate it, because it is life-transforming.

Hawaii actually doesn't have the barriers, so they do have the public networks. I think it is probably largely the cost in Hawaii.

But one of the overriding barriers, and I know this is difficult to hear, but it is the lack of sufficient funding. There really is such a tremendous need to get these systems in place.

But not only funding, the time to plan specifically. The tribal colleges have been working through some grants from the National Science Foundation for about two and a half years to try and address the cyber infrastructure needs on tribal colleges. Going into the pandemic, we had a lot of information. But there is still so much planning that needs to be done. And I think as the questioning started, in this cooperative way where you are involving the States, the tribes, the counties, the municipalities, the institutions, and everyone who is involved together.

So it does take time. Building out the system is not going to happen as rapidly as people want it to. It really takes time to think it out in a very thoughtful way that is going to be sustainable.

I think the other thing for us is that any legislation has to be very, very explicit. We found even though we know that the need, the amount of need for tribal colleges, and that Congress specifically included them in the tribal broadband program, NTIA actually did not include tribal colleges. So because of the way NTIA wrote the regulations, tribal colleges, to address their IT needs, the tribal higher education needs, were excluded from participation because the RFP required internet speeds of less than 25.3.

So that is the household standard, not a standard for institutions of higher education, or for doing telemedicine, or for conducting a business. So we think to address issues like that, Congress has to be much more explicit than it was in drafting the legislation to make sure these agencies are really looking at things in a holistic kind of nation-building way.

Senator CANTWELL. Thank you. Hallie?

Ms. BISSETT. Yes, thank you, Senator Cantwell. I will start by saying I think nobody probably other than our delegation understands the close connection between Alaska and Washington than yourself. We need infrastructure, that middle mile infrastructure that connects Alaska to the rest of the United States, it goes right into your State, it goes into Oregon. It is old; it needs to be replaced. There are basic infrastructure, even down here where all the people are, that really needs some help.

When it comes to the rural areas that you are most concerned about and that I am most concerned about, we have talked a lot about the Office of Broadband Deployment should develop a durable digital equity plan that thoroughly assesses needs across jurisdictions. The plan could include gathering an analysis of speed test data, accurate pricing data, the physical network gap information, along with identification of locations to improve broadband equity. Likewise, the office should identify local efforts to expand broadband access, like workforce development things, like Senator Murkowski mentioned.

Digital inclusion and literacy program, with a focus on equity. Similar efforts by libraries, chambers of commerce, colleges and universities, like the woman that spoke before me, and other entities, should be support whenever possible.

As technology rapidly evolves, it is important that the office works to address broadband needs by increasing broadband equity. The office should constantly monitor the digital divide, establish guidelines for funding accountability to ensure the efficient and expeditious disbursement of funds wherever they are needed most.

Transparent consumer rates are critical to achieving digital equity and should be gathered by the State broadband office and perhaps even by the FCC in its initial and ongoing environmental scan, data gathering and granular mapping efforts. Likewise, subscribership or adoption data with demographic breakouts would be an important reporting metric for determining ongoing equity gaps and potential solutions.

So digital equity should be a guiding principle of Office of Broadband Deployment throughout all the data collection. So we made a recommendation that deployment should prioritize the creation of a durable digital equity plan that includes speed test comparisons, pricing data and physical net network details, broken down by location. That plan should indicate methods to improve broadband equity. That will include partnership with Alaskans, with the private providers, and certainly with the tribes.

And like I have already mentioned, the need of the tribal communities far outweighs the money that has been available. We are extremely grateful for this really giant step in the right direction. But I think the ongoing effort is going to require a little bit more. Thank you, Senator.

Senator CANTWELL. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you. Senator Smith.

Senator SMITH. Thank you so much, Chair Schatz. I don't know if our Vice Chair is still there. I really am appreciating this conversation. I had to jump to something else, I am jumping back, so I hope you will forgive me if I am duplicating any questions, to make sure I get a chance to hear from all of you.

I am going to lay out my biases here, and then I want you to tell me how this applies to the project you are working on, or if you think it applies. This is based on my many conversations with Minnesota's tribal nations, which is that sometimes it just really damned hard to do business with the Federal Government, especially on broadband, right? Because the Federal strategy on broadband is so diffuse. There are so many different agencies, there are just a lot of different pots of money. If you are a tribal nation or a tribal college and you are trying to figure out how to tap into that, it is just really hard, especially if you are a small enterprise, then you have even additional challenges.

It just seems to me that this is an implementation issue that we could work on and do so much better on, and we have an opportunity to do that with an Administration that really wants to get this figured out. I realize it is a really broad question.

But I am just wondering if anybody has any comment on it, who would like to comment on that? What from an implementation perspective, in addition to what Hallie just said, which I had a chance to listen to around digital equity, which I think is so, so important? Anything else that we should keep in mind around implementation? Yes, go ahead?

Mr. HEART. This is Manuel Heart. I agree with Hallie about equity. We as tribal nations need access to the internet and broadband equity for all 574 tribes. We have been talking a lot about Alaska and Hawaii.

But there are also tribes in the lower 48 that also need access to this. Recently we had an issue with the FCC where they came in as a commercial company onto tribal lands. I think it would be helpful to raise the issue to the FCC regarding RDOF, the Rural Digital Opportunity Funds, where companies would come in without notifying tribes to access and put in these lines without even consulting the tribes or asking the tribes to come onto tribal reservations.

That is an issue right now. We as tribes need to really take the tribal lead and make it a tribal initiative, and make it tribally driven.

Now, as to the importance of internet to emergency, fire, 911 calls, right now we have under the BIA, Bureau of Indian Affairs, it is referred to somebody else to come in. So the timeline, time is of the essence to respond to somebody's emergency. So 911, law enforcement, fire emergencies, EMTs, all of this also comes into play, especially for rural tribes that have to rely on the neighboring cities and towns to access, to get some of this emergency response to come out right away. That is another concern.

As was mentioned, education is one. Right now, with what is going on with COVID and with online schooling, it has become a real issue with what is happening right now. Currently, these small grants that we applied for is not really meeting the needs overall, especially with this new Omicron coming on, with the cases just tripling, doubling, quadrupling, and then cases, positive cases.

Going back to your telehealth, it is something that we really need to look at. We are limited with tribes sometimes on providing services. We have to look at these different hospitals that are under IHS, but these clinics are the ones that really need to be addressed also.

So on behalf of the Ute Mountain Ute Tribe, thank you.

Senator SMITH. That is great. Go ahead, Matt.

Mr. RANTANEN. Matthew Rantanen, NCAI. I think one of the biggest descriptors right now is that we had a billion dollars flow through NTIA, and application process. We only saw about half of the tribes apply.

So in reference to your question, why did half of the tribes not apply when there was a guaranteed half a million dollars on the table for them that was earmarked, if they could responsibly put together an application that identified the use of that \$500,000, that is a huge identifier that there is not enough capacity in the tribal space around navigating these applications. The window was very, very short for tribes to be able to apply. And coming out of COVID, going back into COVID, coming out of COVID, we had tribes that never even got their tribal councils together to be able to put together a tribal resolution to support those applications.

Senator SMITH. Right.

Mr. RANTANEN. Some of the tribes didn't get enough of the information about it, or didn't have access already, which we know they don't have access to broadband in many cases. They did not have access to even attend some of the webinars and the informational pieces to learn how to apply.

So we missed half of the tribes in application process. Now \$2 billion more is coming through that is directly aimed at tribes. It is coming from the Infrastructure Bill, proposed to go through the same pipeline. But is that pipeline functional? Because that pipeline is now delayed until spring. That is another piece I wanted to address because tribes are really struggling to get these applications in.

Then there is a timeline that you set forth from Congress to manage these things. If that timeline has been extended, tribes are expecting to know these things at that time. Now, they are thrown off on whether they should apply for Rural Utility Services funding, whether they should apply for some State funding. Because it now has put them out of synch in the rest of their process.

So they are really struggling to do each application. But then when it is thrown out of synch because the NTIA folks haven't gotten to the approvals yet, they don't even know if they are going to get money. Do they apply for the same money from a different organization? Do they log that pipeline?

Those are some of the issues that are around the space right now. Thank you. Senator SMITH. I so appreciate that. I don't think it is even really possible to understand how completely opaque this appears, especially if you are a smaller nation, I am thinking of Red Lake, for example, in northern Minnesota. Very remote, very small, in terms of budget. They have incredible, creative, innovative leadership there.

So I don't know, Mr. Chair, how we can really, this is sort of endemic to the whole process. I think it can't be underestimated what a big issue it is. That is incredible, to think that only half of those that were eligible actually even applied. Because there are probably a whole range of reasons.

Yes, please, go ahead.

Mr. HAASE. I just wanted to add a couple of comments and possibly a solution. I am Walter Haase, I am with the Navajo Tribal Utility Authority. We represent about 27,000 square miles, so we are not like Alaska or Hawaii, but we are very large. We had a middle mile problem.

But I did want to talk about what Matthew said, on the NTIA grant situation. Only half the tribes applied, and they applied for \$5.9 billion. There was only \$900 million available. So there is an ongoing question that the NTIA has asked the tribes to answer by Friday and put in their information by this Friday, whether the \$2 billion that is coming down the pipeline should be just applied to the \$5.9 that is outstanding, which would freeze out half the tribes who never applied, or what should be the process. Further, there is a time situation, because you go through the process, you have more time. I wanted to add on to his comment.

But what I wanted to say, offer a solution for some folks, NTUA got a grant from NTIA back from Obama. We finished in the three-year timeline to install it in 2014. That was over 550 miles of backbone, fiber optic backbone, 32 broadcast stations and towers. The reason the nations did this is they created their own utility, because other providers were only providing scarce utilities in certain areas.

Since that timeframe, we have been able to grow from 32 towers to over 116 towers that we self-funded. We are still a tremendously long way away from solving the problem. But what I am trying to come back to is, the tribe took it upon themselves to create a non-for-profit entity that teams up with co-ops and teams up with other tribes. We provide back service to Hopi, believe it or not, our neighboring communities.

So what I am trying to say is, there is opportunities out there. We need to create some public and private partnerships, possibly creating some public entities, or not-for-profit, such as we are. And then going out and working with others to get the expertise.

I know that is a long process, and in our case, we did not finish everything we needed to finish. But we have made a tremendous progress forward. Having that fiber backbone throughout the Navajo Nation, not completely everywhere, now we just have to add extensions to it, gives us an upper hand in solving the problem faster than other communities that are further behind.

So I just wanted to offer that as, that was our experience as a community. It may be applicable to other folks, and I would be more than glad to talk to other folks offline. Thank you for the opportunity to speak.

The CHAIRMAN. Let's do that. Senator Smith, anything else?

Senator SMITH. If I could just say one other thing. We don't have time to get into it, but I want to just plant it into your brains.

I am really interested in this issue of spectrum sovereignty and how it might relate to solving some of the problems that we have. So I know we don't have time to get into that now, Mr. Chair, but I am really interested in how tribal sovereignty could extend, or should extend, to that issue of spectrum, and how that might solve some of the issues that tribes have with just ridiculous prices that you are faced with.

I just want to put that out there.

The CHAIRMAN. Thank you, Senator Smith. I do want to dig into that.

I want to begin my questioning with Mr. Kealoha. Thank you for everything you do in Hawaii, and thank you for participating in this roundtable. I hope you are safe back home.

Could you do two things for us? First, maybe describe the context in which broadband deployment is happening in the State of Hawaii, how it differs from other places. And then specifically, talk a little bit about the need for education related to technology literacy. It has been touched upon by various panelists.

But this idea that, and Senator Murkowski said it exactly right, the infrastructure is fine, but if it costs you \$300 a month, then it is of no use to you. The infrastructure is great, and if you have an affordable rate, that is great. But you still have to know how to install it and use it and maintain it.

So I want you to kind of help us understand specifically what you are up to in the technology literacy space, but also generally how Hawaii may differ from some of these tribal communities.

Mr. KEALOHA. Thank you for the question, and also the opportunity to participate. It is enlightening and very educational to hear from fellow panelists in Indian Country. Mahalo to them for sharing.

As I was listening and taking notes, the question about funding and coordination, as you said, the situation in Hawaii is pretty different and unique. In Hawaii, we do have an office that is established within our business and economic development office as part of the administration that is called Hawaii Broadband and Digital Equity Office. They are tasked with, its mission is to develop and implement strategies and plans to aggressively increase broadband affordability and penetration and competitive availability in the State. Also, to promote and advocate and facilitate a plan that was created in 2020 to deploy broadband in a strategic way.

That office, created by law in 2021, is largely attributable to grassroots efforts by a number of private-public, non-profit actors, agencies, in our State, in recognizing how much of an opportunity that is unlocked, if broadband is available, affordable, and distributed equitably across our various communities.

So when we talk about coordination and some of the monies that are coming down, I think we are positioned uniquely, because this office that was created by statute, born out of the efforts of a lot of community members, and that work informs this office. So the question now becomes, how do we continue to fund the efforts of this office. There is question, going into this budget session, whether or not the funding will be there for this office. I have to believe that with the amount of resources from the Federal Government that is on its way to Hawaii that our State legislators will recognize the need to properly resource this office in order for it to do the work that it needs to do to coordinate with our community based partners, but also with the Department of Hawaiian Homelands, which is also receiving this significant amount of money to be able to deploy broadband in our various communities.

That is just the start. Coming back to the question of literacy, our organization, Purple Mai'a Foundation, we are an educational non-profit. So you can think of us as maybe the folks that come in when the infrastructure and the capacity and the bandwidth is there. For us, technology literacy is key in the work that we do in servicing and working with our youth, with adults who are seeking changes in career.

So with any investment in the hard assets, there has to be a definite investment in the people and the community aspect. That is where the importance of technology literacy programs, as well as educational programs, come in.

In our youth education programs, we teach our kids that learning technology is like learning a language. To learn a language, you have to have these basic literacy skills. So across our classes, it is fundamental that the kids are learning to acquire these basic digital literacy skills. That in turn enables them to create these wonderful apps that tell their story, allows them to create these applications that share restorative practices on aina, on the land that they are so fond of.

Furthermore, our adult educational program, the importance of literacy as a foundational piece to unlock the acquisition of higher earning remote tech skills. We have a program that seeks to train adults. It is funded through Federal resources, namely the Native Hawaiian Education Program. That program, the focus is on training. First, digital literacy, and then literacy with other technology platforms in an effort to rapidly upscale folks and get them into higher-paying remote jobs that we all hear about that are going on right now.

That is the situation and how things are on the ground in Hawaii.

The CHAIRMAN. I have one last question for you, Mr. Kealoha. If you ran the Department of Hawaiian Homelands, how would you spend those Federal dollars?

[Laughter.]

Mr. KEALOHA. I spent some time preparing, reading some of the reports that they had prepared, and some of the funding asks. It seems like a lot of it was in construction and deployment of some of the assets, to fix some of the fundamental issues that are on the land. There is also a workforce piece. I think that is important. I also think that there is maybe a continuing or other educational piece that is not just training construction workers to be able to deploy these things.

But what comes after that, after the assets and the bandwidth is there, we have to be able to take full advantage of the capacity that is there right now. In my other work as a venture capitalist, we look at ways that we can invest in companies. If you think about all the opportunities or challenges there are, and economic opportunities that come out as a result of solving those problems, I think indigenous communities, Native Hawaiian communities are positioned ideally to solve those prob-

lems. But first comes the implementation of these assets and the training and the educational pieces that then lead to economic opportunities, and what we are particularly interested in, entrepreneurship.

The CHAIRMAN. Thank you very much.

I am going to ask just one more question, but I am going to leave it open to any of you to respond. We all know that the broadband maps are garbage. They are really worse than having nothing, because if we had nothing, we could use our intuition, right? If we had nothing, we could make no assumptions about who is connected and not.

Instead, we have actual bad data which leads policy makers at the legislative level and in the Administration of both parties to engage in magical thinking about who has broadband connectivity and who doesn't. It goes to the census block question, but really it is deeper than that. It has to do with how the preparations of what to count connectivity, sort of having an army of really well-educated individuals who work as hard as they can to remove their common sense when they are trying to analyze whether people have connectivity to the internet.

I also sit on the Commerce Committee with our great Chair, Maria Cantwell. This has been an issue on a bipartisan basis for almost a decade now, maybe more. I am wondering what we can do together, what can the FCC do, what can the Department of Interior do, to kind of wrap our arms around this.

Mr. Rantanen, and then Ms. Bissett.

Mr. RANTANEN. Thank you. Matthew Rantanen, NCAI. Yes, the mapping is, like you said, it is worse than having no data at all, because we are getting misinformation. The number one thing that can happen is changing the way that 477 data is respected. So that is essentially the carriers' marketing map that they are promoting to the FCC as coverage.

What needs to be reported is actual coverage, actual households served, actual speeds, allocations, actual dollars spent for those speeds. I know that the Consumer Reports and a collection of others are working on that, collecting data, putting bills together and doing aggregate of services across the United States to show some of those situations.

But the FCC needs to use actual data, not projected marketing maps. Thank you.

The CHAIRMAN. Thank you.

Ms. Bissett, followed by Mr. Haase, then I am going to have to wrap it up and give it to Senator Murkowski for a closing statement.

Mr. BISSETT. Thank you, Senator.

I think there are a couple of things I would just like to hit on here. In terms of the mapping, we really believe that it is going to take community level engagement to really get there. Luckily, in Alaska, we did a lot of work in the mapping area. But you are right, you can't rely on private entities to accurately report through the pricing data that is out there.

So Alaska recommended that we create regional advisory community boards at the municipal level or the city level or the tribal government level to really provide that data that we really need, which is the cost per household of getting the broadband.

On top of that, just one comment, sir, on Senator Smith's question about spectrum. We are very appreciative of the 2.5 gigahertz spectrum, but from what I have heard from everybody here in Alaska, the service providers themselves don't actually need spectrum. So I would request, dig in a little deeper in giving tribal entities and tribal governments the opportunity to invest in the actual infrastructure itself, like the fiber. Because that is a long-term asset, the cash flow is maybe not a really sexy profit, but it is something that would make a meaningful investment for tribal entities to actually own and operate and be a part of. So thank you for that.

The CHAIRMAN. Thank you. Mr. Haase?

Mr. HAASE. The only thing I would like to add is when they do their data collection, a lot of places in the Navajo Nation and others, you get one bar of service, they count that as service rendered. It doesn't work. You can't make a call, you can't hold anything. That should not be counted as service rendered. And they should be required to give up the spectrum unless they are going to make the spectrum usable for people.

That is the only thing I wanted to add. Thank you.

The CHAIRMAN. Thank you. I think what I would ask from, I am not sure if it is NCAI or who would be most appropriate, maybe you guys can talk offline, is to reduce some of your specific complaints and recommendations to writing. Then maybe we can respond to it on a bipartisan basis, via letter to the FCC, in particular, and say, we have heard these concerns from Indian Country.

By the way, I know this has been done before. But we are sort of at a different moment, because we have a new FCC and maybe a more receptive one.

Mr. RANTANEN. Mr. Chairman, if I may?

The CHAIRMAN. Sure.

Mr. RANTANEN. There is a rulemaking that allows tribal access to spectrum. That is the Tribal Priority Window. It has been applied in FM spectrum usage and it is still open today. It was applied at 2.5. Why can't we get a tribal priority window any time spectrum moves at the FCC, whether it goes to auction, whether it goes to public consumption, whether it gets recalled because of misuse? Why can't the tribes get access with a tribal priority window over their lands every time spectrum moves? That would give the tools that tribes need to build these networks out in some of their communities. Thank you.

The CHAIRMAN. Okay. That is very helpful.

We have, and again, this was not intended to be a hearing, so I want to be a little more action oriented. So whether it is staff or panelists or a member, I would encourage us all to turn everything we have talked to into something to do, rather than just, I am not running a salon here where we are drinking beers and talking about what we would do if we were in charge. We are in charge. So let's get some stuff done together.

Vice Chair Murkowski.

Senator MURKOWSKI. Thank you, Mr. Chairman. I know that you and I have a vote, well, all the members have a vote to get to. So we are kind of time limited here. But I think we could spend a fair amount of time discussing what these action items could be, and the merits for so much that has been presented today. Thanks for the opportunity to do this.

I am just struck, Mr. Rantanen mentioned what we have seen with the number of applications to the tribal broadband program, the over-subscription, six times over-subscribed is something that gets your attention and makes you realize how important it is that we be moving out and doing this smart and in a way that is actually going to deliver the benefit that we are all seeking here.

But it is just a reminder that we have differences across our tribes. So many of the tribes in Alaska are very small. We have some extraordinary leaders, but the capacity is just limited.

So as he was outlining some of the issues there, in trying to understand why about half of the tribes didn't submit applications, trying to figure out whether or not there is some way to have a navigator to help some of our smaller tribes just know what is out there. In the health care system, we developed what we call patient navigators, to just help those monitor ways is a pretty complicated issue for most.

So it seems to me that really need to be, again, trying to figure out now how we can compete against, one tribe against another for these dollars, but view this from a perspective of, how are we all going to derive benefit and gain.

So Hallie, you mentioned the regional cooperation. I really think that we need to be thinking more broadly in terms of the consortium, in terms of the collaborative effort. It goes back to my initial question about, what do we need to be doing to provide for better coordination with the State, with the other governing entities that are out there.

So we have a lot to be working on. I think our Committee has an important role from an oversight perspective, certainly, but also from the perspective of being able to help bring people together, to bring some best practices to be shared, again, in a way that is not competitive, but really works to build up all of Indian Country.

We have an unprecedented opportunity. We have a moment in time. But just because we have tribal set-asides, and just because we have funding that is specific to tribal broadband, we shouldn't believe that there isn't a broader competition out there, again, whether it is supply chain or expertise in the workforce. We are all angling for it at the same time.

So we need to be working together. I think these conversations can help facilitate that. So I am looking forward to a lot more of this.

The CHAIRMAN. Thank you, everybody for participating. I thank the staff and the members and the panelists. This was really constructive. Let this be the continuation of a conversation about how we implement. Because at this point, I think strategy is mostly about execution.

Thanks, everybody.

Senator MURKOWSKI. Thanks, Mr. Chairman. Thanks, everyone.
[Whereupon, at 3:46 p.m., the roundtable was concluded.]

Attachment

PREPARED STATEMENT OF THE UTE INDIAN TRIBE

Thank you, Chairman Schatz, Vice-Chairwoman Murkowski, and distinguished members of the Senate Committee on Indian Affairs, for the opportunity to submit comments for the Roundtable Discussion held on January 16, 2022, entitled “Closing the Digital Divide in Native Communities through Infrastructure Investment.” We appreciate the Committee’s attention to this issue and ask that the Committee continue to pursue legislation that supports broadband services for large land base tribes.

The Ute Indian Tribe (Tribe) is a large land base tribe. Our Uintah and Ouray Reservation (Reservation) encompasses about 4.5 million acres, roughly the size of New Jersey, making it the second-largest reservation in the United States. We have over 3,000 members. The majority of our members live on our Reservation in north-eastern Utah.

As a large land base tribe, many of our communities are in rural and isolated areas. Access to affordable and reliable broadband service is critical in providing governmental services, educational and economic opportunities, and even lifesaving healthcare. The ongoing COVID-19 pandemic has further highlighted the need for broadband and exposed the digital divide we face.

Digital Divide for Large Land Base Tribes

Lack of broadband access has been a persistent issue for Indian tribes over the past 30 years since the Internet became essential for governments, businesses, education, and healthcare. The lack of broadband access for Indian tribes did not become a priority for the federal government until about ten years ago, in 2010, when it created the Office of Native American Policy (ONAP) within the Federal Communications Commission (FCC). ONAP was created to address the inadequate broadband access available on tribal lands.

Ten years after ONAP was created, in April 2020, the FCC reported that only 46 percent of households in rural tribal areas have broadband access, while 92 percent of non-Indian households have access. This means that more than twice as many non-Indian households have broadband access. These statistics show that a majority of tribal households in rural areas still lack access to opportunities and basic services. Closing the digital divide is needed as we work to govern and provide opportunities to our communities and members across our large Reservation.

The impacts of the digital divide and disparities we face became even worse when the COVID-19 pandemic forced us to shut down our offices, schools, and businesses to protect our members and employees. Our members stayed at home for their safety but were isolated without access to broadband service. Later, broadband would become even more important as we all worked to reopen and became reliant on connecting and conducting business through the Internet.

It was not until December 2020 that Congress would finally provide some of the funding needed to begin addressing the digital divide that we face. Some broadband funding was provided earlier in 2020 in the CARES Act, but this funding was not directly available to tribes or was limited to specific purposes. It was not until the FY21 Consolidated Appropriations Act was passed in December 2020 that Congress provided \$1 billion in funding for tribal broadband. It took until June 2021 before the availability of this funding was announced. This funding is badly needed but is too late to address the isolation and conditions we faced before there were vaccines and treatments to address COVID-19.

In addition, while we work to recover from the COVID-19 pandemic, obtaining funding for this critical infrastructure has been subject to delays. Applications were originally due on September 1, 2021. At that time, the National Telecommunications and Information Administration (NTIA) planned to distribute all of the funding by November 29, 2021. However, as of February 4, 2022, only eight applications have been processed and funded. At this rate, with about 300 applications pending, it will take the NTIA another six years to distribute this funding.

NTIA estimates that their review process will be completed by late spring of 2022. NTIA must keep to this schedule and distribute the funding as quickly as possible so that tribes can begin to implement the funding. We need dedicated staff to expedite, review, and approve these critical tribal broadband infrastructure applications.

Finally, the funding available is far less than what is needed. The Ute Indian Tribe applied for a grant through the NTIA Tribal Broadband Connectivity Program, but NTIA has been overwhelmed by applications for funding. In total, Indian tribes have submitted applications for about \$5.84 billion in funding, but NTIA has only \$970 million available for tribes.

This is less than 20 percent of the funding needed by tribes to address the digital divide. Even in response to the COVID-19 pandemic, the extreme and chronic

underfunding of tribal programs continues. With this funding, 80 percent of tribal broadband needs will go unfunded. The United States has a government-to-government treaty and trust responsibility to fulfill these important needs.

Tribal Spectrum Licenses

We have also faced barriers in implementing the Tribal Broadband Spectrum Licenses provided by the FCC. In February 2020, the FCC created the Rural Tribal Priority Window to provide specific broadband spectrum licenses to Indian tribes. The Ute Indian Tribe obtained a 2.5 GHz band spectrum license during the priority window in October 2020. After obtaining this spectrum license, the Tribe quickly partnered with a private, majority Native American and women-owned business to provide engineering, design, installation, commissioning, and maintenance for our broadband infrastructure.

With the 2.5 GHz band spectrum license, we are working to deploy networks on our Reservation to support wireless technology services such as cellular phones, precision agriculture, cloud storage, and wireless Internet. Aside from its commercial uses, the 2.5 GHz band spectrum license can be used for educational, public health, and governmental purposes, as well as household use. The Tribe's new license could be used to broadcast educational programs, utilize telemedicine applications, and improve emergency response services.

However, we face unique barriers to implementing our 2.5 GHz band spectrum license. Barriers include jurisdictional issues, lack of available broadband infrastructure, and "last-mile" connectivity issues. Our projects are also subject to federal regulations and environmental reviews that constrain and limit our attempts to expand broadband infrastructure. For these and other issues, we face difficulties accessing capital and obtaining private partners for the design, engineering, and development of broadband infrastructure. On our large Reservation, we have encountered all of these issues.

We also have to continuously push back against private companies like STRATA and related companies who do not obtain necessary rights-of-way across tribal jurisdiction or consider cultural resources in their own broadband build-outs within our Reservation. Infrastructure development in remote and rural tribal communities like ours is often more complex and expensive.

Working in this environment, we need tribal-specific rules that address our unique issues. For example, under the current FCC regulations for the 2.5 GHz band spectrum license, the Tribe must provide service coverage to at least 50 percent of the Tribe's Reservation population within two years and coverage to at least 80 percent within five years. Lack of available infrastructure, jurisdictional issues, and monopolies in the private market will make it difficult for us to meet these deadlines. Tribes need relaxed timelines, access to planning funds, and additional funding guarantees to execute plans moving forward, and dedicated funds to build-out infrastructure.

Conclusion

The broadband funding provided by Congress fulfills an important federal obligation to help Indian tribes obtain the same broadband connectivity used across the United States to provide government services, education, healthcare, and economic opportunities. However, much more is needed. The digital divide has been growing for decades, and tribes face unique barriers in implementing the limited funding available.

In addition to funding that truly meets the need in Indian Country, we need streamlined and efficient programs and regulations to ensure that we are able to implement the funding provided. We also need rules and programs that recognize and support the huge divide that we are working on crossing. This is even more important for large land base tribes like the Ute Indian Tribe.

Thank you for your leadership on broadband infrastructure issues impacting Indian tribes. We look forward to working with the Committee, Congress, and federal agencies to advance tribal broadband infrastructure.