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Related Agencies**

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Introduction

Greetings Chairman Simpson, Ranking Member Pingree, and Members of the Interior Appropriations Subcommittee. Thank you for the opportunity to testify today as part of the Subcommittee's Public Witness hearing on behalf of NAFOA, founded as the Native American Finance Officers Association. These Tribal public witness hearings are especially timely so that tribes can convey the situation they are now facing as we enter into this year with a new Administration, a new Congress, and new opportunities and challenges. For over 40 years, NAFOA has worked to grow tribal economies and strengthen tribal finance through advocacy, education, and policy development. Our member tribes and tribal enterprises represent the diversity of Indian Country's economic landscape, including tribal gaming, energy projects, agricultural ventures, federal contracting, and more.

Trust and Treaty Obligations

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

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

We recognize the challenges that lie ahead for the federal budget. We urge Congress and the Administration to ensure all tribal programs and federal offices serving Tribal Nations remain fully operational and adequately staffed. This includes recognition that tribal program funding fulfills legal obligations, protection of funding streams supporting tribal economic development, and maintenance of federal staffing levels needed for program delivery. The continuation of vital technical assistance programs, preservation of agency expertise in tribal matters, and protection of tribal-specific program offices are essential for supporting tribal economic growth.

Tax Parity

In addition to protecting Trust and Treaty obligations, we urge the Committee to consider and advance legislation that would create tax parity for Tribes seeking to diversify their economies and invest in their communities. During the 117th Congress, Congresswoman Gwen Moore introduced H.R. 8318, the Tribal Tax Investment and Reform Act I would like to highlight three of H.R. 8318's critical changes.

First, Section 3 of 8318 addresses longstanding disparities by treating tribal governments under the same provisions as states for key tax purposes, including excise taxes, bond issuance, pension plans, general welfare benefits, and charitable organizations.

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

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

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

When tribes are able to access this program, it is making a difference for both tribal and non-tribal economies. In Oklahoma, the Citizen Potawatomi FireLake Hotel project received \$5.5 million in NMTC funding, this is out of a total project costs of \$22.6 million.

Finally, Section 9 of this legislation increases the effectiveness of Tribal Low-Income Housing Tax Credits (LIHTC). The LIHTC program provides tax incentives to developers to create affordable housing, but credits are often unavailable to tribes. This section modifies the definition of a difficult development area to include an Indian area to determine eligible basis, thereby explicitly including Tribes in the LIHTC program criteria. Two examples of the success of this program are the Washoe Housing Authority, in Carson City, NV where LIHTC and Affordable Housing Program (AHP) grants covered 56% of a \$15 million dollar housing project and in Red Lake Reservation in MN, where LIHTC and AHP covered 95% of a \$24.5 million dollar projects.

Congress should pass this legislation to fulfill its trust and treaty obligations and support tribal economic sovereignty. By modernizing the tax code's treatment of tribal governments and providing targeted economic development incentives, this legislation would help tribes generate governmental revenue, deliver essential services, and build stronger reservation economies. NAFOA's staff has been collecting and recording examples of the practical, on-the-ground impact that the Tribal Tax Parity bill would make. I would be happy to share those examples with Members of the Committee, as NAFOA understands it is essential to demonstrate why these changes matter, how they impact our communities, and the potential impact of inaction.

Treasury Matters

NAFOA strongly urges Congress to make the Treasury Department's Office of Tribal and Native Affairs permanent and to continue the Tribal Treasury Advisory Committee (TTAC). These entities are essential for providing technical assistance and guidance, supporting tribes in accessing tax incentives and economic development tools, and developing guidance on general welfare programs and tribal enterprises. They also play a crucial role in ensuring appropriate tribal consultation on tax and economic policies and facilitating government-to-government engagement.

To help ensure that tribal voices are heard at the Treasury, NAFOA urges this Committee to advance legislation making the Office of Tribal and Native Affairs (OTNA) permanent with dedicated funding and staffing, as the OTNA is one of the best examples of federal outreach and assistance. Currently, the office has a budget of \$2 million and employs 8 staffers, and even in a short time, it has already had a positive impact that far exceeds its cost. NAFOA strongly encourages the Treasury to complete regulations on tribal entities with the abovementioned improvements and asks the Treasury to finalize general welfare benefit regulations and rules governing tribally chartered corporate entities.

General Welfare Exclusion Rulemaking

The proposed regulations implementing the Tribal General Welfare Exclusion Act require finalization with several critical improvements. We need supplemental guidance on trust arrangements and deferred benefits to help tribes develop sophisticated benefit structures.

Tribally Chartered Corps Rulemaking

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

Appropriations Reclassification

Unfortunately, the federal funding and appropriations cycles have lacked consistency in recent years. With the current challenges facing federally funded programs, NAFOA recommends changing tribally funded programs under the discretionary classification to the mandatory

classification. Reclassifying programs would help tribes with financial planning and make budget forecasting far more accurate, something that is very important to the business development of tribes that have an oversized reliance on federal programs and funds. One of the programs that NAFOA strongly supports for reclassification is the Contract Support Costs and Payments for Tribal Leases. For the last two years, the President's Budgets has called for reclassification of these programs and Congress's S. Rept. 118-83.

Indian Loan Guarantee Program

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

Carcieri

Lastly, NAFOA supports bipartisan legislation that addresses and fixes the Carcieri decision.

Closing

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

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