

Greetings Chairman Rush, Ranking Member Upton, Chairman Pallone, and Ranking Member McMorris Rodgers. Thank you all for your time today, as well as the opportunity to talk about and support H.R. 8068 the “Tribal Energy Investment Act of 2022”.

As anyone who has filled their gas tank in the past few weeks knows, the energy industry touches every part of our economy and of our daily lives. We have seen how energy development can transform communities, how it can pull entire regions out of poverty, and how it can shape world events. At NAFOA, we know that tribal governments are excited to unlock the energy potential of Indian Country and we believe that H.R. 8068, which permanently changes the Loans Programs Office (“LPO”) ability to offer direct, Nation-to-Nation loans is an important step to helping us get there.

By permanently authorizing the LPO to offer direct loans to tribal governments, we’re addressing two critical topics for Indian Country at once; energy and economic development. By offering direct loans, we are removing an unnecessary component from an already complex process and addressing the lack of access to capital that tribes and tribal members face. Increasing access to capital in Indian country is key essential for unlocking our tribal workforce and helping tribes and the surrounding communities benefit from the growth energy development can create. For the future of tribes, it will be crucially important that quality, high-paying, and maybe most importantly, long-term jobs are on or close to traditional tribal lands. This helps solve several of the issues that tribal governments and organizations face such as creating jobs that encourage tribal members to stay within their communities and to ensure that employment remains diversified so that a downturn in one industry, which we’ve seen with COVID, would not cause outsized economic harm to the tribal economy. It helps ensure the long-term economic resiliency of tribes by making them a part of the new economy that will benefit them for decades and decades to come.

Direct loan authority also addresses the lack of access to capital within Indian country. Banks and other financial institutions have for many years failed to work in Indian country. This is why this change from loan guarantees to direct lending is so important. While we can encourage financial institutions to work in Indian country, the recent joint Notice of Proposed Rulemaking on the Community Reinvestment Act shows how difficult it really is to bring capital into tribal communities and other underserved communities.

One of the major benefits of the LPO is that the program, like NAFOA, is technology agnostic. Well before anyone had ever discussed climate change, the environmental impact of energy usage, or even the impact of Greenhouse Gases, tribal communities understood the importance of the environment in our daily life and health. We know the benefits of a clean, balanced, and stable climate, as well as the need for energy transition over the coming years. However, while Tribes and their members are excited to participate in the new energy industry, they should not be required or asked to bare the economic burden of the energy transition that the broader economy is still economically benefiting from. Additionally, most renewable energy projects require tax equity partner which adds another layer of complexity for tribes to overcome. It is also crucial for the unique nation-to-nation relationship and for tribal self-determination that individual tribes be allowed to decide what energy sources meet their community’s members unique needs and economic circumstances.

By allowing tribes to decide what best addresses their needs, it helps to ensure that each project is something that is appropriate for the area in which it is being constructed and will have the necessary community support to succeed. Many economically viable energy projects are of such a scope that a

grant would never be able to provide sufficient funds to complete the project, nor do grants allow tribal governments to build the financial relationships necessary for future economic development. The only way that energy development, indeed most new economic development, can take place is if you have access to substantial amounts of capital. The LPO not only creates an opportunity to develop Indian Country's resources, but also helps develop Indian Country's access to capital. We have heard that even tribes with no interest or ability to develop energy resources support the LPO program because of this increase in capital access for Indian Country.

Grants absolutely have their place in tribal economic development. However, despite having treaties with the federal government outlining specific promises made to Indian Country, each year tribes must fight for their appropriations. I don't need to tell anyone in this room that the appropriations are inconsistent at best. This puts an incredible burden on tribal governments and makes long-term, economic planning a nightmare; the exact kind of planning that is necessary if tribes are going to take full advantage of the energy industry. Development of energy projects can take years to plan and complete, which increases the negative impact of inconsistent grant funding and unreliable appropriations cycles. Direct loans with set terms helps to alleviate the appropriations uncertainty and make it possible for Indian Country to seriously enter the energy marketplace.

When making decisions about how to allocate limited tribal resources, it is difficult to justify allocating funds towards an economic development program which may or may not exist in the next fiscal year even though it could bring in critically needed new revenues. Forced to choose between funding essential services for tribal members or allocating funds to plan a project for which they may be no opportunity for success because the funding needed is not available the essential services must win. This bill, H.R. 8068, removes the uncertainty, removes one more obstacle from an already complex process, and makes it easier for tribal leaders to say yes to energy development. Direct loans can also interact with grants, increasing positive economic impacts of both. I am excited to share that NAFOA is working in partnership with several Departments on a series of public, educational webinars focused on how the various government grants, programs, and funding sources can be combined in one project.

I want to ensure the Members of the Subcommittee and Committee that there is interest throughout Indian Country in energy development. Since becoming Executive Director of NAFOA just under a year ago, I have witnessed firsthand the strong tribal interest in energy development within our tribal membership and Indian Country at large. NAFOA has run a series of webinars in partnership with the Department of Energy, the LPO, and the Office of Indian Energy and Programs, all of which had high participation. At our Conference in Seattle last April, we ran an event on Indian Energy development that filled its conference room. We also provided space for personnel from the Department of Energy to speak one-on-one with our conference attendees in order to provide programmatic information or offer technical assistance. I know that NAFOA staff has received questions from NAFOA's membership on energy development, and the LPO in particular, and that at the RES Conference last month there was strong interest in Department of Energy programs.

We are excited to continue to work with the LPO, which has done a great job getting word of its activities out. First authorized in 2005, the LPO didn't receive funding until 2017 and it was not until a year later that guidelines, staffing, and work was able to get started. NAFOA has been working with LPO to amplify programmatic announcements, to direct tribal questions to the right offices, to connect them with the necessary tribal contacts, and to help inform tribal governments about what options are available. For many tribes, energy development is an entirely new industry, and just getting the word out on what the program can and cannot do and how it works was a multi-year effort and then COVID hit. To this day COVID still impacts the energy development supply chain in unexpected and unanticipated ways. None the less, I know the LPO has continued its work in reaching out to tribes.

COVID didn't just impact LPO, but also hit tribal communities in a unique number of ways that we are still feeling today. First, there has been an unprecedented flow of money from the federal government to tribes since 2020. However, with the funds have come regulations, deadlines, reporting guidelines, , etc..

For two years tribal governments faced staffing shortages, limited social/governmental bandwidth (a word I use intentionally, as NAFOA knows internet broadband access is a major issue for tribal governments and members), and crisis after crisis to address. Currently, too many tribes are forced to focus on the sometimes overwhelming “now”, much less have the time to focus on an energy project years from now.

Indian Tribes hold a unique legal place in our country. They also face some challenges that traditional energy development organizations do not face. For example, the status of tribal trust land, creates barriers that non-tribal energy developers would not encounter. One of the primary benefits of this change to the LPO is that it removes a major friction point from the energy project development and financing cycle. The change from loan guarantees to direct loans directly from the Department of Energy removes the impediment of finding a lender willing to fund the project. The lack of access to capital is a longstanding problem, as institutions have largely shown an unwillingness to work in and with Indian country.

Direct loans are more consistent with the Nation-to-Nation relationship that tribes share with the U.S. federal government. The treaties are the basis for the trust responsibility the U.S. has with tribes. The federal government has an obligation to step-up where these private sector lending institutions have not. Permanently authorizing the LPO direct loan program strengthens this Nation-to-Nation relationship and takes another necessary small step in fulfilling the promises the United States has made to tribes.

At NAFOA, we know that when tribes are given a level playing field, they are able to compete and surpass the competition. The success of tribes in the gaming industry has demonstrated this clearly. Permanent authorization for the LPO loan program is another step towards unlocking Indian Country’s potential for not just energy, but economic development overall. Removing uncertainty around the LPO’s authority to directly offer loans helps tribes across the country to compete in the energy industry, and ensure that our country’s economy works for everyone. Again, I thank you very much for your time today and allowing me to testify. I am available for any questions. Thank you.