



April 13, 2021

The Honorable Nancy Pelosi
 Speaker
 U.S. House of Representatives
 H-232 Capitol Building
 Washington, D.C. 20515

The Honorable Kevin McCarthy
 Minority Leader
 U.S. House of Representatives
 H-204 Capitol Building
 Washington, D.C. 20515

The Honorable Charles Schumer
 Majority Leader
 U.S. Senate
 S-221 U.S. Capitol Building
 Washington, DC 20510

The Honorable Mitch McConnell
 Minority Leader
 U.S. Senate
 S-230 U.S. Capitol Building
 Washington, DC 20510

RE: Infrastructure Legislative Proposal

Dear Speaker Pelosi, Minority Leader McCarthy, Leader Schumer, and Minority Leader McConnell:

This letter is on behalf of the undersigned American Indian and Alaska Native (AI/AN) organizations, which collectively serve over 580 federally recognized Tribal governments. The requests outlined in this letter address the extraordinarily poor infrastructure conditions that require improvement to meet the health, safety, welfare, and development needs of AI/AN communities.

For decades, the federal government has recognized that Indian Country has sub-standard infrastructure in every sector.¹ The statistics are harrowing: 70 percent of Native homes are in need of repair, 48 percent of Native households lack access to clean water, over 20,000 miles of surface transportation consists of unimproved earthen or gravel roads, 40 percent of Tribal households

¹ A Quiet Crisis: Federal Funding and Unmet Needs in Indian Country, U.S. Commission on Civil Rights (2003) <https://www.yumpu.com/en/document/read/32869468/a-quiet-crisis-federal-funding-and-unmet-needs-in-indian-country>; and Broken Promises: Continued Federal Funding Shortfall for Native Americans, U.S. Commission on Civil Rights (2018) (hereinafter “Broken Promises”), <https://www.usccr.gov/pubs/2018/12-20-Broken-Promises.pdf>.

lack broadband, and there are hundreds of crumbling Tribal health and education facilities that impact life expectancy and educational attainment. Deprivation and disparities are not the resources our ancestors bargained for when they entered a trust and treaty relationship with the United States as political sovereigns. Chronic underfunding increased AI/ANs vulnerability to the coronavirus-19 (COVID-19) pandemic and resulted in our communities having the highest per-capita COVID-19 infection, hospitalization, and death rates in the United States.²

As the U.S. shapes its infrastructure package, it must prioritize the honoring of its trust and treaty obligations to Tribal Nations. Tribal Nation economies have been devastated by federal policies of assimilation, termination, and neglect over the decades and centuries. Both the 2003 Quiet Crisis Report and 2018 Broken Promises Report conclude that the U.S. has failed to honor its trust and treaty obligations to Tribal Nations. As a result, Tribal Nations and AI/ANs suffering from some of the highest health and social well-being disparities found in the United States. Nevertheless, our Tribal Nation economies continue to rebuild after centuries of targeted U.S. destruction as part of its efforts to diminish our sovereign governmental rights, authorities, and powers. Similar to the intentions and rationale of the European Marshall Plan, Indian Country is long overdue its Marshall Plan. A new and modern approach, rooted in diplomacy like the Marshall Plan, must be included with the understanding that purposeful domestic investment into the economic recovery and success of Tribal Nations is in the best interests of the United States. Strong sovereign-to-sovereign relations, and strong Tribal Nation economies, often benefit local surrounding communities as well, through increased job opportunities and increased commerce. These types of benefits are a necessary component to any infrastructure effort. Additionally, in furtherance of these asks, we request the following unified principles apply to Tribal provisions in the forthcoming infrastructure package:

- funds must be provided directly to Tribal recipients and not as pass-through funding to states or another entity;
- indirect costs must be an eligible use of funds and Tribal recipients must be given the maximum flexibility possible in their use of federal funds;
- funds must not be limited to shovel-ready projects;
- all funds for Tribal recipients should be available until expended;
- funds should not be subject to competitive grants and match requirements; and
- explicitly require the Indian canons of construction be applied to provisions of this bill.

For convenience, we have created an abbreviated list to coincide with the specific funding and policy requests found in this letter.

The categories of funding and policy requests begin below.

Healthcare Infrastructure.....	5
Healthcare Facilities Construction	
Public health Infrastructure	
Tribal Health Workforce Development	

² Centers for Disease Control and Prevention, Risk for COVID-19 Infection, Hospitalization, and Death by Race/Ethnicity, <https://www.cdc.gov/coronavirus/2019-ncov/covid-data/investigations-discovery/hospitalization-death-by-race-ethnicity.html>

Unfunded Provisions of the Indian Health Care Improvement Act (IHCA)
Urban Indian Organization (UIO) Infrastructure

Water Infrastructure.....8

Telecommunications and Broadband Infrastructure.....9

Energy Infrastructure.....10

Housing Infrastructure.....11

Transportation Infrastructure.....12

Law Enforcement, Public Safety, and Justice Infrastructure.....12

Lands and Natural Resource Infrastructure.....13

Climate Infrastructure.....14

Education Infrastructure.....15
 K-12 Infrastructure
 Tribal College and University (TCU) Infrastructure

Indian Child Welfare Infrastructure.....17

Agriculture Infrastructure and Rural Development.....17

Tax Parity and Equity.....18

Economic and Workforce Development.....19

Tribal Governance and Funding Stability.....19

In conclusion, we thank you for your consideration of the requests outlined in this letter. We look forward to working with you to ensure that Indian Country’s infrastructure and tax concerns and other priorities are comprehensively addressed in forthcoming packages.

Sincerely,

National Congress of American Indians
National Indian Health Board
National Indian Gaming Association
National Indian Child Welfare Association
National Indian Education Association
National Council of Urban Indian Health
National Center for American Indian Enterprise Development

National Association of Food Distribution Programs on Indian Reservations
National American Indian Housing Council
National Association of Tribal Historic Preservation Officers
Native Farm Bill Coalition
Native American Finance Officers Association
National Tribal Emergency Management Council
Intertribal Agriculture Council
Intertribal Transportation Association
Native CDFI Network
American Indian Higher Education Consortium
Self-Governance Communication & Education Tribal Consortium
Association on American Indian Affairs
Great Plains Tribal Chairman's Association
United South and Eastern Tribes Sovereignty Protection Fund
Affiliated Tribes of Northwest Indians
Midwest Alliance of Sovereign Tribes
United Tribes of Michigan
All Pueblo Council of Governors
Inter Tribal Association of Arizona
Inter-Tribal Emergency Management Coalition
NW Tribal Emergency Management Council
Northwest Portland Area Indian Health Board
Alaska Tribal Transportation Work Group

Healthcare Infrastructure

Over the last several decades, Tribal Nations have seen incremental improvements in the federal government's efforts to support Tribal sovereignty and honor the trust responsibility regarding health; however, the Indian health system remains critically underfunded with medical services funded at only 48 percent of need. AI/ANs experience some of the poorest health outcomes when compared to all other groups. Strategic investment in health infrastructure is necessary to build a health system that will improve the health of all AI/ANs and prevent and prepare for public health emergencies. Outlined below are the current infrastructure needs in Indian Country related to the Indian, Tribal, and Urban Indian (I/T/U) Health Systems.

Health Care Facilities Construction

On average, Indian Health Service (IHS) hospitals are 40 years of age, which is almost four times more than other U.S. hospitals with an average age of 10.6 years. A 40-year-old facility is nearly 26 percent more expensive to maintain than a 10-year facility. Further, about 52 percent of current health care facilities are grossly undersized for patient populations, which has created crowded, even unsafe, conditions among staff, patients, and visitors.³ At current rates of funding, if a new facility was built today, it would not be replaced for 400 years.⁴ The absence of adequate facilities frequently results in either treatment not being sought, or sought later, prompted by worsening symptoms, and/or referral of patients to outside communities. To address these needs, we request the following:

- At least \$21 billion for Healthcare Facilities Construction, including but not be limited to, support for new and current planned projects, the Small Ambulatory Health Center Program, UIOs, the Joint Venture Construction Program, and innovative approaches to addressing unmet construction needs for health facilities as described in 25 U.S.C. §1631(f).
- At least \$10 billion in facilities construction funding that is available outside of the current Healthcare Facilities Construction Priority System (HFCPS) as a new, equitable source of funding that will provide access to construction funds and demonstration project funds for Tribes that do not qualify under HFCPS criteria.
- At least \$2.9 billion for Sanitation Facilities Construction.
- At least \$2 billion for behavioral health facilities.
- At least \$1.8 billion for equipment.
- At least \$750 million for maintenance and improvement of IHS and Tribal Facilities.
- At least \$580 million devoted to incorporating sustainability features into construction projects (new and existing facilities).

Public Health Infrastructure

Public health infrastructure in Indian Country is one of the most severely underfunded and underdeveloped areas of the health service delivery system. The majority of the health disparities

³ The 2016 Indian Health Service and Tribal Health Care Facilities' Needs Assessment Report to Congress. Indian Health Service, (2016).

https://www.ihs.gov/sites/newsroom/themes/responsive2017/display_objects/documents/RepCong_2016/IHSRTC_on_FacilitiesNeedsAssessmentReport.pdf

⁴ House Committee on Natural Resources, Oversight Hearing on Improving and Expanding Infrastructure in Tribal and Insular Communities, Remarks by Congressman Doug LaMalfa (R-CA), March 9, 2017. <https://republicans-naturalresources.house.gov/newsroom/documentsingle.aspx?DocumentID=401671>

Tribal communities currently face, such as obesity, diabetes, heart disease, and cancer are largely preventable chronic conditions. Treating these chronic health conditions imposes unnecessary challenges on Tribal health systems and IHS. Presently, full funding for the IHS is at least \$48 billion to address unmet service needs, that are not inclusive of the infrastructure asks outlined below. A significant federal investment must be made to improve the Tribal public health system to begin to make meaningful reductions in chronic and infectious disease disparities experienced by AI/AN people. Accordingly, we request full funding for the IHS and the following:

- Full funding for the Indian Health Service at \$48 billion.
- At least \$3 billion for Electronic Health Records and Health IT Modernization.
- Allow I/T/U providers to be reimbursed for services provided outside of the four walls of their clinic, just as they would if they were provided in the clinic.
- At least \$1 billion for an Inter-Tribal (interoperability between Tribes) public health infectious disease surveillance systems with mobile capabilities to accommodate rural/mobile public health professionals.
- At least \$2.3 billion for Tribes and Tribal Epidemiology Centers (TECs) to build and strengthen Tribal public health infrastructure and capacity.
- Codify a permanent Tribal set-aside in the Strategic National Stockpile at a minimum of five percent.
- Reauthorize the Special Diabetes Program for Indians (SDPI) through FY26 and increase funding to \$250 million annually, with annual increases for medical inflation and funding available through contracts/compacts for Title I and Title V Tribes.
- Establish a Native Behavioral Health Program for I/T/U and fund through FY26 at \$200 million annually with annual increases for medical inflation, and funding available through contracts/compacts for Title I and Title V Tribes.
- Authorize advance appropriations to insulate Indian health care providers from government shutdowns and allow for long-term planning.

Tribal Health Workforce Development

IHS and Tribal health providers continue to struggle to find qualified medical professionals. Currently, IHS sites' estimated vacancy rates stand at: 34 percent for physicians; 16 percent for pharmacists; 24 percent for nurses; 26 percent for dentists; 32 percent for physician's assistants; and 35 percent for advanced practice nurses.⁵ Current vacancy rates make it nearly impossible to operate a quality healthcare program. With competition for primary care physicians and other practitioners/administrators at an all-time high, the situation is unlikely to improve soon. IHS cannot meet workforce needs with the current strategy. To strengthen the healthcare workforce at I/T/Us, Indian Country needs investment from the federal government to educate, recruit, and expand its pool of qualified medical and healthcare administration professionals. To accomplish this goal, we request the following:

- Establish a non-competitive tribal program for Graduate Medical Education (GME) with \$10 billion in funding, removing administrative barriers and allowing all reasonable costs for GME funding by Indian operated hospitals.

⁵ U.S. Government Accountability Office, Indian Health Service, Agency Faces Ongoing Challenges Filling Provider Vacancies, GAO-18-580. (2018). <https://www.gao.gov/assets/gao-18-580.pdf>

- Establish a Tribal set-aside of \$6 billion for Tribal medical residency programs under the HRSA Teaching Health Centers program.
- Make IHS and Tribal Loan Repayment Program tax-exempt.
- Establish a Tribal set-aside in Public Health Scholarships.
- At least \$2 billion for improved housing options and long-term livable standards for IHS and Tribal health workforce.
- Fully fund the Community Health Aide Program for implementation in all states and for UIOs.

Unfunded Provisions of the Indian Health Care Improvement Act

Various portions of the Indian Health Care Improvement Act (IHCIA) have either been partially, or not at all, funded or implemented since the law was permanently reauthorized in 2010. All of the programs included in the law were meant to fulfill the trust and treaty responsibility owed to Tribal Nations by the federal government and provide high quality healthcare to AI/ANs. Until all of these programs are fully funded and implemented, Indian health will continue to lack the resources needed to fulfill these obligations. We request the following programs, authorized in IHCIA, be fully funded and implemented:

- Community Health Aide Program.
- Health Professional Chronic Shortage Demonstration Project.
- Indian Health Care Delivery Demonstration Projects (IHCIA Section 143).
- Indian Country Modular Component Facilities Demonstration Program.
- Mobile Health Stations Demonstration Program.
- Services for Community Based Long-Term Care.
- Inpatient and Community Health Facilities Design, Construction, and Staffing for at least one inpatient mental healthcare facility per IHS Area.

Infrastructure for UIOs

There are 41 UIOs operating in 77 health facilities across 22 states that provide high-quality, culturally competent care to urban Indian populations. Tribal leaders advocated to Congress for the creation of UIOs after the Relocation Era in recognition that the trust obligation for healthcare follows Indians off reservations. Unfortunately, there are significant parity issues experienced by UIOs as compared to other federally funded healthcare systems, which greatly impact their services and operations. For example, the IHCIA prohibits UIOs from making even minor renovations to their facilities using their annual appropriations. This provision was intended to help UIOs maintain or attain accreditation with grants, but instead has hamstrung UIOs from using their already limited funding for any infrastructure needs.

Further, unlike other parts of the Indian health system, UIOs do not receive any funding for facilities infrastructure, which has made repairs, renovations, and remediation extremely difficult. The pandemic has made it even harder for UIOs as they now must make updates for no-contact services, socially distanced waiting rooms, and increased security to adhere to COVID-19 safety guidelines. The time is long overdue for investment into UIO infrastructure for this vital prong of the Indian health system, and we request the following:

- Amend the IHCIA to remove restrictions on using UIO funds for making facility renovations.
- At least \$100 million for Urban Indian Health IT (25 U.S.C. § 1660h).
- At least \$749.3 million for Urban Indian Health.
- At least \$3 million for Urban Indian Health Community Health Representatives (25 U.S.C. § 1660f).
- Extend Full (100 percent) Federal Medical Assistance Percentage (FMAP) to services provided at UIOs permanently.
- Establish an Urban Confer Policy for HHS.

Water Infrastructure

Water is a critical resource in Indian Country, with implications for the physical, cultural, and economic wellbeing of Tribal citizens. Yet 48 percent of Native households lack access to clean water, and 12.5 percent of AI/AN homes do not have basic sanitation facilities. Further, approximately two percent of these homes lack access to safe drinking water, as compared to 0.6 percent of non-Native homes in the U.S.⁶ To place this discrepancy in perspective, the Environmental Protection Agency’s Sixth National Drinking Water Infrastructure Needs Survey and Assessment – which focuses on Drinking Water State Revolving Fund eligible projects – reported that for this program there was a combined Indian Country need of \$3.8 billion in capital investments over the next 20 years.⁷ Access to clean water and water infrastructure is a top priority for Indian Country and necessary for our health and development of Tribal economies.⁸ Accordingly, we request the following:

- At least \$3.8 billion for Tribal governments within the Drinking Water State Revolving Fund and an increase to 5 percent, permanently, for the annual Tribal set-aside for the Drinking Water State Revolving Fund and the Clean Water Act State Revolving Fund.
- Permanently increase to 20 percent the Tribal allocation for Water Pollution Control Grants (Clean Water Act Section 106) to aid development of Tribal water quality for public health.
- At least \$25 million to support Tribal environmental programs in assessing and managing nonpoint source pollution programs and threats.
- At least \$30 million to support the protection and management, conservation, and utilization of trust water resources.
- Increase funding by \$200 Million for water infrastructure and create a Tribal set-aside within the U.S. Department of Agriculture (USDA) Rural Development water programs, including for: Community Facilities Direct Loan & Grant Program; Water & Waste Disposal Grants to Alleviate Health Risks on Tribal Lands and Colonias; Grants for Rural and Native Alaskan Villages; Water & Waste Disposal Loan & Grant Program; and provide \$10 million to support Tribal assessments on aging drinking water and wastewater infrastructure.

⁶ Indian Health Services, Safe Water and Waste Disposal Facilities, Fact Sheet, <https://www.ihs.gov/newsroom/factsheets/safewater/>.

⁷ Environmental Protection Agency, “Drinking Water Infrastructure Needs Assessment Survey: Sixth Report to Congress” (2018), pg. 42-46.

⁸ Id., at Broken Promises, pg. 180-184.

- Permanently authorize and fund the Reclamation Water Settlement Fund (RWSF) to enable Tribal communities to address water shortages through water delivery infrastructure for the health, safety, and welfare of their communities.
- Increase funding for and permanently authorize the Indian Reservation Drinking Water Program.

Telecommunications and Broadband Infrastructure

Funding is needed throughout Indian Country for rapid deployment, adoption, affordability, and access to broadband internet. According to a 2019 Federal Communications Commission (FCC) report, individuals residing on Tribal lands are nearly 4.5 times as likely to lack any terrestrial broadband internet access as those on non-Tribal lands.⁹ Even when examining fixed broadband deployment at speeds lower than 10 Mbps, only 6 percent of homes on non-Tribal lands lack coverage by any wired provider, while 25 percent of homes on Tribal lands have no wired option for 10/1 Mbps service.¹⁰

Barriers to broadband deployment in Indian Country range from a lack of financial investment, too difficult terrain that leads to excess deployment costs, and complex and burdensome regulatory environments.¹¹ Many Tribal Nations face many of these barriers, perpetuating digital exclusion. Modest estimates have indicated that the cost to begin closing the digital divide in Indian Country would be in excess of \$8 billion. In 2009, The American Recovery and Reinvestment Act (ARRA) distributed \$7.2 billion in broadband grants and loans, with less than two percent of those funds going towards Tribal broadband projects.¹² Broadband is critical infrastructure and Congress must ensure that Tribal communities are not left behind as education, healthcare, government services, and commerce undergo years of changes in a short time. Accordingly, we request the following:

- \$10 billion in additional funding to the Tribal Broadband Connectivity Grant Program through NTIA.
- Establish a \$1 billion Tribal Broadband Fund within the FCC to provide technical assistance, training, and direct funding to Tribal governments for broadband infrastructure deployment, maintenance, and upgrades.
- Establish a 20 percent Tribal set-aside for the USDA’s Rural Utility Service broadband programs and 5 percent of the FCC’s Universal Services Fund for the benefit of broadband deployment on Tribal lands.
- Ensure anchor institutions, including Tribal libraries, Tribal library consortiums, and community centers are eligible for the FCC’s E-rate program.
- Require the FCC to open a new 2.5 GHz Rural Tribal Priority Window (TPW) that would last at least 180 days in order to create additional time for Tribal governments to apply

⁹ Federal Communications Commission, *Report on Broadband Deployment in Indian Country, Pursuant to the Repack Airwaves Yielding Better Access for Users of Modern Services Act of 2018*, 5, (2019), https://aipi.clas.asu.edu/sites/default/files/05011019fccreport_on_broadband_deployment_in_indian_country_pursuant_to_the_repack_airwaves_yielding_better_access_for_users_of_modern_services_act_of_2018.pdf

¹⁰ Id., at pg. 5.

¹¹ Department of Interior, Indian Affairs, *National Tribal Broadband Strategy*, pg. 6, (2021), <https://www.bia.gov/sites/bia.gov/files/assets/as-ia/doc/2020.%20December.%20National%20Tribal%20Broadband%20Strategy%20FINAL-cover%20change.pdf>

¹² Congressional Research Service, *Background and Issues for Congressional Oversight of ARRA Broadband Awards*, R41775, (2015), pg. 2-3, <https://crsreports.congress.gov/product/pdf/R/R41775>

for unassigned spectrum licenses over their lands and remove the rurality requirement for the TPW.

- At least \$1 billion for Tribal broadband grant programs through BIA and establish the Tribal Broadband Right-of-Way Pilot Program to allow the Secretary of the Interior to delegate the authority to approve rights-of-way for the construction, maintenance, and facilitation of broadband service to Indian Tribes.
- Establish the Tribal Broadband Interagency Working Group to serve as a forum to improve coordination across Federal broadband programs; reduce deployment barriers; promote awareness of Federal support for broadband deployment; and develop common Federal goals, performance measures, and plans to deploy affordable broadband on Tribal lands.
- Establish a Tribal Broadband Deployment Advisory Committee for Tribal leaders to meet and make recommendations to Congress on ways of improving the deployment of Tribal broadband services.

Energy Infrastructure

The energy resources of Tribal Nations are vast and critical to Tribal and national energy security, the reduction of greenhouse gases, and Tribal economic development. These resources include one-quarter of the nation's on-shore oil and gas reserves, one-third of the nation's western low-sulfur coal,¹³ almost 3.5 percent of the nation's wind energy, and approximately five percent of the nation's total solar energy potential.¹⁴ Despite this potential, Tribal Nations encounter significant financial and regulatory barriers to developing resources within their homelands, including access to existing infrastructure and financing energy development.¹⁵ The consequences of these hurdles are dire for Tribal citizens in Indian Country. For example, approximately 14 percent of homes on reservations do not have access to electricity.¹⁶ Congress must act to address long-standing funding and structural inequities facing Tribal Nations as they seek to develop their energy resources. Accordingly, we request the following:

- At least \$1 billion for Tribal energy grant programs within the Department of Energy's Office of Indian Energy Programs.
- At least \$60 million to the U.S. Department of Agriculture High Energy Cost Grant Program for Tribal applicants.
- At least \$50 million to establish a program to provide financial assistance to Tribal governments to carry out projects related to the modernization of the electric grid and energy storage.
- At least \$35 million to Bureau of Indian Affairs Tribal Energy programs.
- Remove non-statutory program requirements that create barriers for applicants and provide 100 percent loan guarantees for the Tribal energy loan guarantee program.

¹³ See e.g., Property and Environment Research Center, PERC Policy Perspective: Unlocking the Wealth of Indian Nations: Overcoming Obstacles to Tribal Energy Development, (2014), <https://www.perc.org/wpcontent/uploads/old/pdfs/IndianPolicySeries%20HIGH.pdf>.

¹⁴ National Renewable Energy Laboratory, Techno-Economic Renewable Energy Potential on Tribal Lands, (2018), <https://www.nrel.gov/docs/fy18osti/70807.pdf>

¹⁵ Id., at Broken Promises, pg. 182

¹⁶ Department of Energy Department of Energy FY 2017 Congressional Budget Request – Volume 3. (Feb. 2016), pg. 755. <https://energy.gov/sites/prod/files/2016/02/f30/FY2017BudgetVolume3.pdf>.

- Confirm the regulatory authority of Tribal governments over their energy utilities, services, and infrastructure under the Federal Power Act, the Public Utilities Regulatory Policy Act, and the Rural Electrification Act.

Housing Infrastructure

Tribal Nations need an extensive investment in Tribal housing programs to meet the current backlog of maintenance, fund new construction, and alleviate overwhelming housing instability. Presently, Tribal communities face overcrowded homes at a rate of 16 percent, roughly eight times the national average.¹⁷ Over 70 percent of existing housing stock in Tribal communities is in need of upgrades and repairs, many of them extensive.¹⁸

The flat-funding of federal housing programs for Tribal Nations, combined with inflation in construction costs over time—has resulted in a sharp decrease in the number of affordable housing units developed in Indian Country in recent years.¹⁹ In 2016, the Acting Deputy Assistant Secretary at HUD stated that, “one of the greatest impediments to developing affordable housing in Indian Country is the flat funding of the Indian Housing Block Grant (IHBG) for most of the program’s history.”²⁰ Since NAHASDA was enacted, Tribal Nations have lost nearly \$3.5 billion in funding from the lack of inflation indexing alone. In addition to historical funding shortfalls, the location of many Tribal communities increases the material and labor costs of home construction and imposes additional housing development costs.²¹ Building materials must often be brought into Tribal communities from miles away over substandard roads or even by air, and the availability of “qualified and affordable contractors” is limited.²²

In a 2017, HUD reported it would take approximately 33,000 new units to alleviate overcrowding and an additional 35,000 to replace existing housing units that are in grave condition.²³ Current annual IHBG appropriations only allow Tribes to build or purchase 1,000-1,200 units a year. To meet the total need of approximately 68,000 housing units (new and replacement), with the average development cost of a three-bedroom home, the total cost exceeds \$33 billion.²⁴ While IHBG is the largest single source of federal funding for housing development and assistance, programs promoting housing development, maintenance, and rehabilitation in Tribal communities also are offered at the U.S. Department of Veterans Affairs, U.S. Department of Agriculture, and U.S.

¹⁷ U.S. Department of Housing and Urban Development, *Housing Needs of American Indians and Alaska Natives in Tribal Areas: A Report From the Assessment of American Indian, Alaska Native, and Native Hawaiian Housing Needs*, (2017), <https://www.huduser.gov/portal/sites/default/files/pdf/HNAIHousingNeeds.pdf>

¹⁸ U.S. Department of Housing and Urban Development, *Fiscal Year 2017 Congressional Justifications*, pg. 11-12, (2016), https://www.hud.gov/sites/documents/FY_2017_CJS_COMBINED.PDF.

¹⁹ Id, at Broken Promises, pg. 142

²⁰ Randall R. Akers, then Acting Deputy Assistant Secretary at HUD, *Testimony*, Briefing Transcript, pg. 166–67.

²¹ Id, at Broken Promises.

²² Ibid.

²³ U.S. Department of Housing and Urban Development, *Housing Needs of American Indians and Alaska Natives in Tribal Areas: A Report From the Assessment of American Indian, Alaska Native, and Native Hawaiian Housing Needs*, (2017), <https://www.huduser.gov/portal/sites/default/files/pdf/HNAIHousingNeeds.pdf>

²⁴ National Congress of American Indians, *Tribal Infrastructure: Investing in Indian Country for a Stronger America*, An initial report by NCAI to the Administration and Congress, 2017, p. 11, https://www.ncai.org/attachments/PolicyPaper_RslnCGsUDiatRYTpPXXwThNYoACnjDoBOrdDIBSRcheKxwJZDCx_NCAI-InfrastructureReport-FINAL.pdf

Department of the Interior. To address Indian Country’s extensive housing needs, we request a total of \$33 billion for Tribal housing programs.

Transportation Infrastructure

The economy and wellbeing of Indian Country are dependent upon transportation infrastructure. Without safe and well maintained roads, bridges, and adequate public transportation, Tribal Nations cannot adequately provide essential services to their citizens. Tribal Nations construct, improve, and maintain transportation facilities used by Tribal citizens and non-Tribal citizens alike and require funding to promote public safety, economic development, and community wellbeing.

Tribal and non-Indian residents in Tribal communities face significant transportation barriers every day getting to work, school, health facilities, retail centers, and government offices. U.S. Department of Transportation officials have characterized roads in Indian Country as the “most rudimentary of any transportation network in the United States,” with nearly two-thirds of BIA-owned and Tribally-owned public road systems comprised of unimproved earth and gravel.²⁵ The CDC notes that AI/ANs suffer fatal motor vehicle crashes and pedestrian deaths at two and three times the national average.²⁶ The coronavirus pandemic has highlighted the infrastructure deficiencies that exist throughout Indian Country. Accordingly, we request the following one-time investment in roads, bridges, highways, and transit systems to help connect Indian Country to goods, services, cultural events, education, jobs and markets, improve the economies of the nation’s Indian Tribes, and rebuild vibrant and safe Tribal communities:

- At least \$11 billion for Tribal Transportation Program.
- Establish a 10 percent Tribal set-aside within the Airport Improvement Program and the Essential Air Service Program.
- \$500 million in funding for the BIA Roads Maintenance Program to address the deferred maintenance backlog.

Law Enforcement, Public Safety, and Justice Infrastructure

Tribal governments serve as the primary instrument of law enforcement, homeland security, emergency management, and justice delivery for the more than 50 million acres of land that comprise Indian Country. As a result of historic underfunding and complex jurisdiction issues, AI/ANs experience disproportionately high rates of violent crime, more than 2.5 times the national rate; some reservations face more than 20 times the national rate of violence.²⁷ Despite these disproportionately high rates of violence, law enforcement, public safety, and justice infrastructure across Indian Country has largely remained underfunded.

²⁵ U.S. Department of Transportation, *Hearing on Transportation Issues in Indian Country Before the Committee on Indian Affairs U.S. Senate*, July 12, 2007, <https://www.transportation.gov/testimony/Tribal-transportation-indian-reservation-roads-irr-program-and-federal-highway>

²⁶ Centers for Disease Control and Prevention, *Tribal Road Safety: Get the Facts*, 2020, <https://www.cdc.gov/motorvehiclesafety/native/factsheet.html>

²⁷ See Department of Justice (DOJ) and Department of Interior (DOI), Tribal Law and Order Act (TLOA) Long Term Plan to Build and Enhance Tribal Justice Systems, Joint Report in collaboration with the Work Group on Corrections, August 2011, pg. 2 (quoting Steven W. Perry, American Indians and Crime, A BJS Statistical Profile, 1992-2002, DOJ, Bureau of Justice Statistics, 2004) (<https://www.justice.gov/sites/default/files/Tribal/legacy/2014/02/06/tloa-tsp-aug2011.pdf>).

In addition to violent crimes, man-made disasters and natural disasters worsen safety in Indian Country. As the number of disasters across the U.S. has risen, Tribal governments continue to be left behind in assistance to meet the core homeland security and emergency management capabilities and capacities. For over 50 years, Congress has funded state and local governments, but not Tribal governments, to develop and sustain these core capabilities and capacities.

The COVID-19 pandemic exposed the tragic results of no federal investments in Tribal emergency management capabilities and capacity; 85 percent of Tribal governments were unable to access billions in life saving funds during the height of the pandemic.²⁸ Many of the Department of Homeland Security (DHS) funding streams lack a Tribal set-aside and include burdensome administrative requirements to access the billions of dollars in federal funds. The Tribal capacity and funding gaps will continue to grow unless all Tribal governments receive streamlined support to build their homeland security and emergency management capacity. Congress must ensure the safety of all Americans by providing the following funding streams for Tribal law enforcement, public safety, and justice in Indian Country:

- \$1 billion for law enforcement infrastructure in Indian Country.
- \$200 million for the BIA Public Safety and Justice Construction.
- \$500 million for the construction of Tribal multi-justice centers and detention facilities through the Department of Justice, Bureau of Justice Assistance.
- \$500 million for Tribal courts, including courts in P.L. 280 jurisdictions through the BIA Indian Tribal Justice Act programs.
- \$527.4 million for criminal investigations, police services, and detention/corrections through the BIA.
- Establish the Tribal Resiliency Continuity Program within DHS to build Tribal emergency management capacity and provide \$244 million.
- \$40 million for the Tribal Homeland Security Grant Program and establish a DHS National Tribal Advisory Council.
- Establish a 10 percent set-aside for Tribal governments in cybersecurity funding available for state and local governments, as well as to require DHS to submit an annual report to Congress outlining the cybersecurity needs of Indian Country.

Lands and Natural Resource Infrastructure

Despite losing more than 1.5 billion acres to U.S. expansion between 1776 and 1934, AI/ANs have nurtured, lived, and thrived off their traditional homelands since time immemorial as the first stewards of those places. As land managers, Tribal Nations and their citizens maintain deep and ongoing physical, cultural, spiritual, and economic relationships. When these lands and natural resources are mismanaged, Tribal Nations suffer. Further, many Tribal Nations ceded their territories in exchange for reserving the right to continue to fish, hunt, and gather. Without abundant natural resources to sustain Tribal lifeways, Tribes' treaty rights, cultures, and economies are inevitably threatened. These risks heighten when off-reservation development and management of federal lands do not invite or adequately include Tribal input and ignore impacts to Tribal cultural heritage and natural resources. Congress must better support incorporation of

²⁸ See Federal Emergency Management Agency, *By the Numbers Coronavirus Pandemic Whole-of-America Response* (Feb. 8, 2021); Federal Emergency Management Agency, *By the Numbers Coronavirus Pandemic Whole-of-America Response* (March 8, 2021).

Tribal knowledge and co-management strategies into natural resources infrastructure. Accordingly, we request the following:

- Enact a Clean *Carriers*-Fix to ensure all Tribal Nations have the ability to restore their homelands.
- At least \$700 million for Tribal wildland fire prevention and preparedness activities.
- At least \$550 million for the National Park Service Tribal Historic Preservation Officer (THPO) Program.
- Reauthorize and provide at least \$500 million in funding to the Indian Environmental General Assistance Program (IGAP).
- At least \$97.5 million for natural infrastructure for Tribal wildlife conservation and restoration.
- At least \$70 million for Tribal fish hatchery infrastructure, including deferred maintenance, facility upgrades, and new facilities.
- Establish a Tribal wildlife corridors program and provide at least a \$10 million set-aside for Tribal governments.

Climate Infrastructure

The cultures and lifeways of Tribal Nations and their citizens are place-based and closely tied to subsistence practices. These resources are disappearing faster than they can be restored because of dramatic shifts in weather and climate.²⁹ As a consequence, Tribal Nations are at the front lines of the climate crisis and disproportionately affected by having to respond to dramatic and incremental events like sea level rise, coastal erosion, ocean acidification, increased frequency and intensity of wildfires, extended drought, and altered seasonal duration.³⁰ These weather events have impacts on traditional cultural and subsistence practices and sacred places, Tribal fisheries, timber harvesting, and agricultural operations, eco-tourism, and infrastructure.³¹ As a result of these challenges, Tribal Nations are involved in all stages of climate response, including but not limited to, emissions reduction, mitigation, and adaptation. Tribal Nations are key partners in the national and global response to climate change. Accordingly, we request the following:

- At least \$2 billion for Tribal climate resilience and adaptation.
- Authorize HUD's Sustainable Communities Initiative to support Tribal planning efforts to help communities integrate housing, transportation, infrastructure, and environmental goals.
- Incentivize Tribal participation in state and regional carbon trading markets and treat Tribal carbon credits as a trust resource.
- Authorize a Climate Migration Program to facilitate and fund Tribal governments' climate-related migration planning and implementation needs.
- Authorize FEMA to work with Federal agencies to streamline and standardize the application process for grants and other financial assistance to increase collaboration between the federal government and Native communities and develop unified, comprehensive plans that incorporate hazard mitigation plans, risk assessments, climate

²⁹ Broken Promises, pg. 193.

³⁰ Id. at, pg.193-194.

³¹ Fourth National Climate Assessment, Vol. II: Impacts, Risks, and Adaptation in the United States, Chapter 15 (2018).

vulnerability assessments, and flood maps that can be used to streamline federal climate adaptation resources.

Education Infrastructure

K-12 Education

Many Native-serving schools remain shuttered, creating major complications for students who have only experienced education through distance and virtual programs in the past year. As our schools look at reopening, many lack the basic infrastructure for safe return to the classroom. The Department of Interior reports a \$725 million backlog in addressing deferred maintenance issues at Bureau-funded schools.³² This is nearly double the \$430 million backlog in 2016 when the Department of Interior Office of Inspector General found it would take \$1.6 billion to replace the 68 Bureau-funded schools in the worst condition.³³ Most recently, at the end of FY 2019, BIE reported 71 schools in poor condition.³⁴ Additionally, public schools that serve students on and near Tribal lands face similar issues, as shown by a 2017 report from the National Association of Federally Impacted Schools (NAFIS), which found over \$4.2 billion in infrastructure projects with the “most pressing need” at schools receiving Impact Aid funding.³⁵

The number of schools that need replacement has grown since these reports, particularly taking into account public health hazards such as ventilation. Deferred maintenance has nearly doubled, exacerbating the rate of deterioration in our school facilities and increasing the need for a strong investment in school replacement and facility construction. Even the newest facilities must undergo major renovations to heating and air, plumbing, and other systems to ensure the safety of students, staff, and faculty in the building. In addition, transportation expenses are expected to rise due to limitations on space, and requirements for technology support and broadband have become even more essential in the new virtual world. Accordingly, we request the following:

- \$725 million to address deferred maintenance and failing infrastructure in Bureau-funded schools, as defined in 25 U.S.C. § 2021(3).
- At least \$2.6 billion for Replacement School/Facility/Employee Housing Construction at Bureau-funded schools, as defined in 25 U.S.C. § 2021(3).
- \$120 million for education information technology.
- \$73 million to the BIE Student Transportation Program for funding and improving transportation.
- \$4.2 billion to address pressing school facility needs at Impact Aid schools.

TCU Infrastructure

³² Statement of Jason Freihage, Deputy Assistant Secretary For Management Office Of The Assistant Secretary For Indian Affairs Department of The Interior Before The Subcommittee on Interior, Environment, and Related Agencies, House Committee on Appropriations on Education Facilities And Construction, July 24, 2019, <https://www.congress.gov/116/meeting/house/109835/witnesses/HHRG-116-AP06-Wstate-FreihageJ-20190724.pdf>.

³³ U.S. Congressional Research Service, Indian Elementary- Secondary Education: Programs, Background, and Issues, RL- 34205; July 28, 2020. <https://files.eric.ed.gov/fulltext/ED607186.pdf>

³⁴ U.S. Department of the Interior Site Assessment Analysis for FY 2020, Data as of end of FY 2019 Q4. <https://www.ncai.org/12 - Improving School Facilities - Site Assessment Analysis for FY 2020.pdf>

³⁵ NAFIC, Foundations for Learning: The Facilities Needs of Federally Impacted Schools, Jocelyn Bissonnette, 2017. <https://www.nafisdc.org/wp-content/uploads/2017/07/2017-school-construction-report.pdf>

The nation's 37 Tribal Colleges and Universities (TCUs) serve more than 160,000 AI/ANs, and other rural community members each year through academic and community-based programs at more than 75 sites in 16 states. TCU students represent well over half of the over 580 federally recognized Tribes, hailing from more than 30 states, and 79 percent receive federal financial aid.

A recent survey of TCUs, conducted by the American Indian Higher Education Consortium (AIHEC), revealed a list of outstanding, chronic facilities-related needs.³⁶ These needs include campus renovations; technology-enabled facilities; and student and faculty housing, classrooms, libraries, and laboratories. A recent TCU Cyberinfrastructure study conducted by AIHEC and EDUCAUSE, revealed that TCUs have more expensive and, on average, much slower Internet connectivity than other U.S. institutions of higher education.³⁷ Additionally, the average TCU IT equipment replacement rate is 8.29 years, lagging behind the industry standard rate of three to five years. To address these urgent needs, funds should be dedicated within the Department of the Interior to address TCUs' new construction needs, deferred maintenance and rehabilitation issues, and facilities operations and maintenance needs. A dedicated fund also should be established within USDA's Rural Utility Service to provide and develop critically needed telecommunication and broadband services to better serve TCUs, as rural, community-based, and under-resourced institutions. Accordingly, we request the following:

- \$800 million for TCU construction, deferred maintenance, rehabilitation, and construction.
- Establish a permanent TCU IT Service Fund at \$24 million under the USDA-Rural Utilities Service Program.
- An additional \$200 million for TCU/1994 land-grant research, equity, and extension programs to establish a level of equity for the thirty-five 1994 land-grant institutions compared to programs for the fifty 1862 institutions and eighteen 1890 institutions.
- Land-grant research infrastructure funding: no less than 33 percent should be designated for the 1994 land-grant institutions (based on the share of institutions in the nation's land-grant system).
- To help build a highly skilled and educated Native workforce, no less than 10 percent of *any* funding within the Department of Education (ED) designated for minority-serving institutions should be specifically designated for TCUs.
- An adequately funded ED-Capital Financing Fund should be established for TCUs, consistent with the *existing* Capital Financing Fund for HBCUs.
- Designate for TCUs at least 10 percent of Department of Labor workforce development funding provided to community colleges and other institutions of higher education.
- \$20 million for the Department of Health and Human Service TCU-Head Start Partnership Program to help address the dearth of trained and credentialed workers.
- At least \$20 million to TCU programs directed at science and engineering education.

³⁶ AIHEC, TCUs: Information Technology & Cyberinfrastructure Needs, February 2021.

http://www.aihec.org/what-we-do/docs/FY22/PHASE%20%20COVID%20Relief%20Bill_TCU%20Priorities_2.24.21.pdf

³⁷ AIHEC, TCUs: Information Technology & Cyberinfrastructure Needs, February 2021.

[http://www.aihec.org/what-we-do/docs/FY22/TCU%20IT%20Fund%20\\$24M.pdf](http://www.aihec.org/what-we-do/docs/FY22/TCU%20IT%20Fund%20$24M.pdf)

- Establish a TCU Native American Language Vitalization and Training program at \$15 million annually to preserve and revitalize the use of endangered Native American languages.

Indian Child Welfare Infrastructure

AI/AN child welfare programs and social service agencies need to have the resources necessary to support families in times of crisis and uncertainty. The COVID-19 pandemic further revealed and exacerbated many of the disparities that Tribal governments face in trying to address child safety concerns in their communities. The lack of investment in infrastructure has negatively impacted the ability of Tribal Nations to develop comprehensive data collection, telemedicine options for youth, and child welfare human service program areas. For example, Tribal Nations only receive about one-half of one percent of all federal child welfare funds, despite Native children representing approximately two percent of the United States population under the age of 18 and four percent of the child welfare population.³⁸ Accordingly, we request the following:

- \$25 million to support Tribal child welfare data systems development (authorize under Title IV-B, Subpart 1 of the Social Security Act – the Stephanie Tubbs Jones Child Welfare Services Program).
- \$20 million to support the development of Tribal child welfare telemedicine options (authorize under Title IV-B, Subpart 1 of the Social Security Act – the Stephanie Tubbs Jones Child Welfare Services Program).
- Create a 5 percent Tribal set-aside under the Title XX Social Services Block Grant to fund workforce development training and the ability to have flexible funds to address other cross-cutting human service infrastructure needs across a range of human service populations.

Agriculture Infrastructure and Rural Development

Agriculture serves as a major economic force in Indian Country, especially as a job creator for rural Tribal communities. Tribal governments and farmers rely on partnerships with the federal government to support the agriculture industry and the more than 35 percent of AI/ANs who live in rural communities. USDA’s 2017 Census of Agriculture counted nearly 80,000 Native farmers and ranch operators utilizing more than 59 million acres of land.³⁹ These farms and ranches sold \$3.5 billion of agricultural products, including more than \$1.4 billion of crops and \$2.1 billion of livestock and poultry.⁴⁰ However, AI/AN agriculture producers often struggle to access loans, insurance, and credit lines.⁴¹ To address this lack of investment, we request the following:

³⁸ National Indian Child Welfare Association, American Indian/Alaska Native Children Exposed to Violence in the Home Testimony of Dr. Sarah L. Kastelic, Deputy Director National Indian Child Welfare Association provided to the Attorney General’s Task Force on American Indian and Alaska Native Children Exposed to Violence, Pg. 5-7, 2013, https://www.nicwa.org/wp-content/uploads/2016/11/NICWATestimonyTaskForceonAIANChildren-ExposedtoViolence_Dec2013.pdf

³⁹ USDA National Agricultural Statistics Service, 2017, *Census of Agriculture*, Table 63, https://www.nass.usda.gov/Publications/AgCensus/2017/Full_Report/Volume_1_Chapter_1_US/usv1.pdf.

⁴⁰ Ibid.

⁴¹ Id., at Broken Promises, pg. 213.

- \$725 million to fund the Conservation Stewardship Program within the Natural Resources Conservation Service (NRCS), allow for updated cost and payment schedules, and support specific additional and regenerative conservation practices.
- \$30 million to the National Institute of Food and Agriculture, Federally Recognized Tribal Extension Program.
- \$320 million for Food Distribution Program on Indian Reservations (FDPIR) new construction, new sites and expansion of existing sites and service, new and existing infrastructure, and technological upgrades.

Rural development programs across the federal government offer opportunities to address barriers Tribal communities face by providing funding for essential infrastructure. For any infrastructure investment plan to be truly national, it must assess and account for the unique needs of Indian Country. Therefore, in any upcoming infrastructure package, we request the following:

- \$3.5 billion infrastructure investment to build integrated Tribal food hubs throughout Indian Country, which includes funding for processing, meat processing, storage, logistics, distribution, technical assistance, financial support, and Native youth opportunities.
- Expand USDA’s Rural Development (RD) programs’ Substantially Underserved Trust Area (SUTA) designation to all programs at RD to support Tribal priority.
- At least \$29 billion in loan authority for the Rural Housing and Community Facilities Programs.
- At least \$3.4 billion to USDA Rural Development, Rural Utilities Programs, and Rural Housing and Community Facilities Program.

Tax Parity and Equity

Congress has a trust and treaty responsibility to ensure that federal tax policy grants Tribal governments the same opportunities as other governments to provide for their citizens. Currently, the tax code does not provide Tribal governments many of the benefits and protections available to state and local governments. These disparities place Tribal governments at a distinct disadvantage when it comes to providing for the health, safety, and welfare of their communities. These inequities are further exacerbated by dual taxation. While Tribal Nations have the inherent authority to tax within their jurisdiction, economic activities on Tribal lands are often subject to attempts by state and local governments to tax the same activity. Dual taxation creates unpredictability and disincentives for investments on Tribal lands.

Tribal governments often forego taxation in order to retain private investment on their lands. As a consequence, they lose essential government revenue to support their communities’ infrastructure needs. These impacts necessitate federal action to address dual taxation and also highlight the urgent need for legislative efforts to increase access and deployment of targeted tax credits in Indian Country to address significant socio-economic disparities. Indian Country has long asked Congress to pass legislation in the areas contained in NCAI Resolution PDX-20-025⁴², and we

⁴² PDX-20-025, Calling Upon Congress to Enact Legislation to Provide Equitable Tax Treatment for Tribal Governments, https://www.ncai.org/attachments/Resolution_wPZfxMuBQFONFflmBcWUhzqEfEPuosDgIMnpHmjJAhdhIIAWMsQ_PDX-20-025%20SIGNED.pdf

request their inclusion in any tax and infrastructure package. These include, but are not limited to, the following:

- Provide Tribal tax exempt bond parity, establish a National Tribal Government Bond Volume, and remove the Essential Government Functions Test.
- Increase deployment of Low-Income Housing Tax Credits in Indian Country and ensure Tribal inclusion in program allocation.
- Increase deployment of New Markets Tax Credits in Indian Country and provide a proportional Tribal allocation.
- Simplify, expand, and make permanent the Indian Employment Tax Credit.

Economic and Workforce Development

Chronic underinvestment and growing backlogs of critical infrastructure projects hamper Tribal Nations' ability to realize and leverage their economic potential and their citizens' ability to participate fully in the American economy. In addition to increased direct funding, Congress must support Tribal governments' ability to leverage and attract private capital for continuing infrastructure needs. As identified in the Broken Promises report, the lack of financial institutions near Tribal lands, the inadmissibility of trust land as collateral, and outright discrimination against AI/ANs have been barriers to accessing capital. These issues necessitate investments in Tribal programs that incentivize private investments in Indian Country to finance infrastructure. "Access to Capital" programs enable Tribal governments and Native businesses to secure loans and surety bonding through expanded loan guarantees which will better enable participation in rebuilding our infrastructure and economy.

Additionally, "Access to Contracting" tools are essential, especially those unique to Indian Country, to increase opportunities for Tribal enterprises and other Native businesses to pursue award of federal contracts and subcontracts for infrastructure-related development, including transportation, water, power, cyber defense, telecommunications and broadband deployment, and housing, school and health facilities construction, and other economic development projects. Lastly, to realize the long-term economic benefits of infrastructure development, workforce investments must be made to ensure Tribal citizens have training and access to skilled labor positions. Accordingly, we request the following:⁴³

- Provide \$1 billion for Interior's Indian Loan and Surety Bond Guarantee Programs.
- Expand the Buy Indian Act's application government-wide.
- Implement the Indian Incentive Program government-wide, as originally intended.
- At least \$60.5 million for the Department of Labor, Employment and Training Administration, Indian and Native American Program Workforce Innovation and Opportunity Act Section 166 program.

Tribal Governance and Funding Stability

In exchange for the land and resources that made the United States the most powerful country in the world, Tribal Nations paid in full to retain their inherent right of sovereignty and receive

⁴³ The first three requests are detailed in an April 9, 2021 inter-organization letter which we endorse and is accessible here: <https://www.ncaied.org/buy-indian-expansion-proposals/>

programs, services, functions, or activities (PSFAs) provided by the federal government. These PSFAs represent an exchange of promises made and acknowledgement of sovereign rights already held by Tribal governments. Federal funding for these PSFAs should be provided through mandatory spending mechanisms and should not be administered through competitive grants.

The ability of any governing body to promote, develop, and maintain physical and institutional infrastructure is derived from the stability and certainty of revenue sources to operate government. Disruptions in resources for Tribal Nations have an outsized impact that substantially harms infrastructure advancement. Ambiguities in the intent of Congress with respect to Section 105(l) lease agreements under the Indian Self-Determination and Education Assistance Act (ISDEAA) also impact health delivery and substantially hinder the development of healthcare infrastructure throughout Indian Country.⁴⁴ The following policy solutions will ensure Tribal Nations have the basic certainty and security in continuity of resources to address systemic infrastructure needs throughout Indian Country and maximize federal investment:

- Make spending for programs that fulfill the trust and treaty obligations of the United States mandatory.
- Provide formula-based, annually reoccurring funding for Tribal programs that fulfill core trust and treaty obligations to Tribal governments rather than competitive grant mechanisms.
- Provide such sums as may be necessary for ISDEAA Section 105(l) lease agreements through mandatory spending for DOI and IHS and confirm that space used to provide services within the scope of an ISDEAA agreement—to any patient—is compensable under Section 105(l) of the ISDEAA.
- Provide such sums as may be necessary for Contract Support Costs through mandatory spending for DOI and IHS.

⁴⁴ NCAI Resolution #ECWS-2021-002, Support for Legislative Fix to Amend Lease Compensation Provisions of the Indian Self-Determination and Education Assistance Act.
https://www.ncai.org/attachments/Resolution_contvOcwAgAYphrWIBPWpscJEzItoIqJInPaYgiHtOhHqZpSyCL_NCAI%20Resolution%20ECWS-21-002.pdf