

**Testimony of Dr. Aaron A. Payment,
Chairperson of the Sault Ste. Marie Tribe of Chippewa Indians**

I am Dr. Aaron Payment. As the elected Chairperson of the Sault Ste. Marie Tribe of Chippewa Indians, I am speaking on behalf of my Tribe. My testimony today will focus upon federal recognition of Tribal sovereignty rights; federal treaty and trust obligations to the Tribes; the need for mandatory funding; and advance appropriations. Throughout all of my testimony, I will use data from my own Tribe, as well as national statistics.

I will start by noting that every time I meet with representatives of the federal government, I explain the meaning of Tribal sovereignty, Tribal Treaty rights, and the federal government's trust obligation to the Tribes. I do this because I think that federal representatives have forgotten what those words mean. When I request adequate funds for Tribal programs and services, federal representatives often behave as if I am begging for handouts, or that I am seeking some sort of public welfare provision for my People. They fail to recognize that I am requesting what the federal government owes my Tribe. Unfortunately, the federal government is well aware of its treaty and trust obligations to the Tribes and often chooses to ignore those obligations. This must stop.

In December of 2018, the U.S. Commission on Civil Rights published a federal study, entitled "Broken Promises: Continuing Federal Funding Shortfall for Native Americans", which was made widely available throughout the federal government. The study reported that the federal government is not meeting its treaty and trust obligations to the Tribes¹. This study was a follow-up from its earlier report called, "A Quiet Crisis: Federal Funding and Unmet Needs in Indian Country", published in 2003, which had the same conclusion². Before these studies, there were other studies, and before them, there were numerous Congressional hearings and judicial opinions, which came to the same conclusion: The federal government has failed to meet its treaty and general trust obligations to the Tribes.

Need for Adequate Appropriations:

Across the country, 25.7% of American Indian/Alaska Native people in the U.S. live below the poverty level, in contrast to 12.4% for the U.S. all races population.³ Unemployment rates in Indian Country average 22%.⁴ Basic living characteristics for Natives on Indian lands contribute to the Native American health crisis, for example, 32% do not have telephone service. 15% live in overcrowded homes. 11% of Native homes lack kitchen facilities, 14% have no access to electricity, and 12% lack complete plumbing.⁵

Federal funding provided for Tribal housing programs are grossly inadequate. Within the Sault Ste. Marie Tribe, we have a long waiting list for families who need housing. Of those that *have* homes, many still need housing assistance: A lot of our own Tribal families are low income or

¹ "Broken Promises: Continuing Federal Funding Shortfall for Native Americans." U.S. Commission on Civil Rights (2018).

² "A Quiet Crisis: Federal Funding and Unmet Needs in Indian Country." U.S. Commission on Civil Rights (2003).

³ Trends in Indian Health, 2014 Edition. U.S. Department of Health and Human Services, Indian Health Service, Office of Public Health Support, Division of Program Statistics. Page 4.

⁴ Trends in Indian Health, 2014 Edition. U.S. Department of Health and Human Services, Indian Health Service, Office of Public Health Support, Division of Program Statistics. Page 4.

⁵ U.S. Census, 2000

impoverished and lack the resources and financial capabilities to maintain regular home maintenance. This is why programs like the Home Improvement Program is so important to my Tribe. Last year, the President wished to eliminate HIP. Thankfully, Congress saved the program. HIP is designed to serve the neediest Tribal members residing within approved service areas who are in desperate need of home repair and maintenance; it is just as necessary today as it has been in the past. Therefore, I recommend that Congress fully fund the HIP program. Another key program for our Tribal people is the Low Income Home Energy Assistance Program (LIHEAP). This program helps families keep their homes adequately heated. I believe that this program has kept Tribal elders and some of the Tribal children from freezing to death in the past. I urge Congress to fully fund LIHEAP.

Tribal education programs are key to improving the lives of our People. Our Head Start program is essential to meeting the early education needs of Tribal children. Our Head Start program is still operating at 50% for full day services. Early Head Start has not had a base funding increase for at least 17 years. Because we lack adequate funding, we barely keep adequately staffed and can offer only minimal parent enrichment opportunities. We would not be able to operate at all, if it weren't for Tribal contributions. Additionally, Head Start and Early Head Start programs need funding for facilities and facilities maintenance. 36% of Indian Country's Head Start and Early Head Start programs have documented facilities concerns, including deterioration due to adverse weather conditions, mold, leaks, flooding, poor insulation, and cracked ceilings.⁶ I strongly recommend base funding increases for both Head Start and Early Head Start, as well as funding increases for facilities maintenance.

Our Tribal Court program, an integral component to our Tribe's sovereignty, is significantly underfunded. In fact, the federal government provides only 3.76% of base need funding necessary to operate a Tribal Court capable of meeting our Tribe's service population needs.⁷ In fact, federal base funding for our Tribal Court program has only increased a total of \$3,000 in the past 21 years.⁸ In the end, our Tribe provides additional funding necessary to meet the needs of basic needs of our government, but that money is taken from other governmental programs, such as health, education, and care for the elderly. Even then, we still lack sufficient funds. For example, our 2014 BIA assessment notified our Tribe that we are currently unable to implement various Tribal Court programs, due to insufficient funding including: upgrading the Court's technology, improving the Court building's security, providing court forms and instructions, fully developing Tribal Court Rules, developing a policies-and-procedures manual, staff training, and hiring additional staff.⁹ We recommend Congress fully fund Tribal Courts base funding levels to meet the budget model provided by the BIA.

The BIA's Natural Resources Management Endangered Species program is an important program, vital to the maintenance of important threatened and endangered species. Since 2012, Sault Ste. Marie Tribe of Chippewa Indians has sought identified several endangered species needs and submitted requests for funding. To date however, our funding requests have not been granted. This is due to the competitive nature of limited funds available to the Midwest region. My Tribe recommends full funding for the program. The Sault Ste. Marie Tribe of Chippewa

⁶ National Indian Head Start Directors Association, 2018 Advocacy Head Start/Early Head Start Issues and Concerns, Updated: April 2018. Pages 6 and 7.

⁷ Judge Jocelyn Fabry, Sault Ste. Marie Tribe of Chippewa Indians, April 2018.

⁸ Id.

⁹ Id.

Indians has relied on the BIA Forestry Program for several planning and management projects. The President's proposed 9% cut to the program would hurt our Tribe. While my Tribe does not have substitutive commercial forest resources, we do have over 1,500 acres of forest lands that are maintained. The management of these acres are dependent on the Forestry Program funds and the BIA staff that work on our behalf. Additionally, we have a strong interest in developing forest resources in the future. We see this as an opportunity for the Tribe to create new jobs for Tribal members and increase access to natural resources for subsistence harvest. We strongly recommend full funding of the BIA Forestry Program.

Bottom Line:

The lack of adequate funding limits what Tribal governments can provide for their people and prevents Tribes from lifting themselves from a state of dependence to self-sufficiency and empowerment.

Tribal self-sufficiency is a worthy goal. It would not cancel out the federal government's treaty and trust obligations, but it would enable Tribal governments to be healthy, productive entities within the United States capable of enriching themselves and their surrounding non-Native communities. This would benefit federal, Tribal, and state governments.

To advance this goal, I urge mandatory funding and advance appropriations for federal programs and services impacting Tribes.

Currently, Tribes are subject to the whims and willingness of Congressional members to appropriate discretionary funding for Tribal programs and basic services. Political whimsy cannot be depended upon to fulfill treaty obligations. For example, for no discernable reason, federal appropriations for Indian health care are significantly lower, per capita, than what is appropriated for federal prisoners. This type of nonsensical funding decision-making does not meet federal treaty health care obligations.

People's lives are at stake¹⁰. Poor living conditions contribute to the Native health crisis, but so too, does the federal government's failure to adequately fund Tribal health programs. National health care spending in 2016 was \$9,990 per capita, while Indian Health Service spending was only \$2,834.¹¹ American Indians and Alaskan Natives are much harder hit by disease, chronic illness, and injury than other Americans. Native Americans are 450% more likely to die of tuberculosis; 520% more likely to suffer from alcohol-related deaths; 368% more likely to die from chronic liver disease and cirrhosis; 207% more likely to die from motor vehicle crashes; 177% more likely to die from diabetes complications; and our youth are 2.5% times more likely to commit suicide than other populations.¹² Cancer rates in Indian Country are 12% higher than the rest of the US, and Native Americans with cancer are 26% more likely to die compared to

¹⁰ Native American life expectancy that is almost 5 years less than it is for other populations within the U.S., and in some states, it is almost 20 years less than whites (See, National Indian Health Board, "The National Tribal Budget Formulation Workgroup's Recommendations on the Indian Health Service Fiscal Year 2019 Budget," page 9, March 2017).

¹¹ Honoring the Federal Trust Responsibility: A New Partnership To Provide Quality Healthcare to America's First Citizens. The National Tribal Budget Formulation Workgroup's Recommendations on the Indian Health Service Fiscal Year 2019 Budget. March 2017. Page 10.

¹² National Indian Health Board, "The National Tribal Budget Formulation Workgroup's Recommendations on the Indian Health Service Fiscal Year 2019 Budget," page 10, March 2017

non-Natives.¹³ Sault Ste. Marie Tribe of Chippewa Indians Tribal clinics are only funded at approximately 50% capacity which means that we are unable to provide adequate treatment for our People. At a minimum, I urge mandatory funding for American Indian and Alaska Native health care budgets (including a form of automatic annual adjustment to account for inflation and increased eligibility) at similar levels to other federal health programs.

I also urge advance appropriations. Increasingly, the federal appropriations process fails to follow a regular order. Each time the appropriations process fails to proceed in an orderly fashion, it leaves Tribes, already faced with critically underfunded health and general welfare programs, in peril. The effects of appropriation lapses and delays in the enactment of the budget have exacerbated operational challenges in the administration of programs that serve Tribal Nations and their citizens and placed the health and safety of our people and communities at risk. Whenever there are shutdowns, Tribe must institute hiring freezes for key medical staff, teachers, law enforcement officers, and social welfare professionals. Tribal governments are also forced to lay off employees, put essential infrastructure improvement and economic development projects on hold, and curtail services that are essential for the health and welfare of their citizens.

Currently, the United States Senate is considering the Indian Programs Advance Appropriations Act (S 229). This legislation is modeled after the *Veterans Health Care Budget Reform and Transparency Act of 2009* and the *Surface Transportation and Veterans Health Care Choice Improvement Act of 2015*. It would move Indian Health Service programs, Bureau of Indian Affairs programs, and '638' contract support costs to an advance appropriations cycle beginning in FY2020. To accomplish this goal, the bill also requires the HHS and DOI Secretaries to include consideration of the advance appropriations system in their budget estimates submitted to Congress through the budget request process. Overall, this legislation will insulate funding that helps fulfill trust obligations, provide for seamless operations across fiscal years and advance fairness and parity. I urge the U.S. House of Representatives to support this legislative measure.

As I conclude, I note that in addition to my request that you institute mandatory funding and advanced appropriations on federal programs and services impacting Tribes, I also request you appropriate funds for those programs and services as specifically recommended by inter-tribal organizations such as the National Congress of American Indians, the National Indian Health Board, the National American Indian Housing Council, and the National Indian Education Association, and as specifically requested within this testimony.

If you have any questions, or need additional information, please do not hesitate to contact me at aaronpayment@saulttribe.net or my Tribal Legislative Director, Mike McCoy at MMcCoy@saulttribe.net.

¹³ National Indian Health Board, "The National Tribal Budget Formulation Workgroup's Recommendations on the Indian Health Service Fiscal Year 2019 Budget," page 9, March 2017