

Written Testimony of Rodney Butler
Chairman, Mashantucket Pequot Tribal Nation
For the House Committee on Appropriations
Subcommittee on Interior, Environment and Related Agencies
February 26, 2025

Greetings Chairman Simpson, Ranking Member Pingree, and distinguished members of this Subcommittee. Thank you for the opportunity to testify today. My name is Rodney Butler, and I am proud to serve as Chairman of the Mashantucket Pequot Tribal Nation.

I want to begin by underscoring a fundamental truth: Tribal Nations are and always have been inherently sovereign governments that have strong political relationships with our Tribal citizens and community members. We govern and police our lands, and we provide services aimed at keeping our communities safe. The United States Constitution singles out Tribal Nations and Native people as unique, and the U.S. Supreme Court has time and again affirmed the principle that United States actions that deliver on trust and treaty obligations to Tribal Nations do not run afoul of the U.S. Constitution's equal protection requirements.

The United States fulfills its trust and treaty obligations through both the direct delivery of Tribal programs and services and provision of federal funding to Tribal Nations and Tribal organizations serving Tribal Nations. Over time, the United States has created a web of different mechanisms it uses to deploy federal funding to serve Tribal Nations and Tribal communities. Essential services provided by Federal employees include healthcare services through the Indian Health Service (IHS), law enforcement and public safety through the Bureau of Indian Affairs (BIA), and educational services through the Bureau of Indian Education (BIE)—not to mention countless other essential and legally mandated services provided by employees serving in Tribal offices and throughout the federal government.

Any Tribal program or funding delivered to Tribal Nations is provided in furtherance of the United States' trust and treaty obligations. The federal employees necessary for the functioning of those Tribal programs and the disbursement of those Tribal funds are also part of the trust and treaty obligations. The United States further has a duty to consult government-to-government with Tribal Nations on federal actions that may have Tribal implications, including implications on delivery of trust and treaty obligations. These actions are not discretionary; they are legal obligations rooted in treaties, trust obligations, the U.S. Constitution, and long-standing federal statutes.

The Trump Administration's early actions have generated significant concerns throughout Indian Country. This includes freezing and potentially reallocating vital federal funding, firing essential federal employees, and proposing changes to important Tribal programs. We have also been wrongly caught up in Administration efforts related to illegal immigration and diversity, equity, and inclusion and environmental justice programs. From our perspective, these actions represent a misunderstanding of our unique political status under the law and the United States' legal requirement to deliver on its trust and treaty obligations. Mandates issued by the Administration have acknowledged that they are not meant to affect ongoing legal requirements, and Indian Country programs are legally required by trust and treaty obligations and associated implementing

statutes. If the Administration were to engage in government-to-government Tribal consultation with us prior to executing on its priorities, we could help the Administration avoid harm to Indian Country.

We note and appreciate that the Departments of Health and Human Services and Interior and the Office of Personnel Management have taken some steps to clarify that implementation of the Administration's Executive Orders and priorities should not impact the United States' delivery on trust and treaty obligations to Tribal Nations. We call upon this Subcommittee and all appropriators to ensure that these directives are faithfully implemented and similar policies are executed across the federal government. More broadly, we call upon you to do your part in upholding trust and treaty obligations, including by appropriating the funding that Indian Country is owed, and by assisting the Administration in meeting its legal obligations to us.

With these topline principles as a backdrop, I would like to raise for your consideration several subject matter areas that are particularly important for Mashantucket Pequot.

Tribal Law Enforcement

In February, 2024, the BIA Office of Justice Services released its *Report to Congress on Spending, Staffing, and Estimated Funding Costs for Public Safety and Justice Programs in Indian Country*. This report, issued per the Tribal Law and Order Act of 2010, provides a comprehensive analysis of current expenditures, staffing levels, and the estimated costs necessary to meet the public safety needs of Tribal communities.

The findings of this report are deeply concerning. In 2018, funding for public safety and justice services in Indian Country met only 14 percent of the actual need—a shortfall of \$2.33 billion. As of 2021, funding met only 12 percent of the need, resulting in a \$3.06 billion shortfall. This funding gap corresponds to an estimated need for 25,655 additional personnel to adequately serve and protect Native communities. These numbers represent the critical resources required to address crime, ensure public safety, and uphold the federal government's trust responsibility to Indian Country.

The Mashantucket Pequot Tribal Nation has worked diligently to create a safe and secure community for our tribal citizens and guests. However, we have experienced these shortfalls firsthand as a persistent challenge remains for us—difficulty recruiting and retaining police officers due to the disparities between Tribal police departments and our state or municipal counterparts, particularly regarding benefits and resources. Our community's safety and security are paramount, and our Tribal law enforcement agencies are on the front lines of these efforts. Despite their vital role, these agencies often face significant challenges due to disparities in authority, resources, and benefits compared to their state and municipal counterparts.

In the 118th Congress, the House Committee on Natural Resources passed H.R. 4524, Parity for Tribal Law Enforcement Act, which is a step forward in acknowledging these challenges and taking action to address them. We urge you to take up similar legislation that will enhance the operational capabilities of Tribal law enforcement agencies, ensuring they have the necessary authority, resources, benefits, and training to protect our communities effectively. Doing so

supports Tribal sovereignty and self-determination, and promotes safer and more resilient communities across Indian Country.

105(l) Leasing

The 105(l) leasing program, established under Section 105(l) of the Indian Self-Determination and Education Assistance Act, allows Tribal Nations and Tribal organizations to lease their own facilities to the federal government for delivery of services and obligates the federal government to reimburse Tribal Nations for contract support costs, reinforcing the federal trust obligation to support tribal self-governance. Contract support costs represent the necessary and reasonable expenses Tribal Nations incur in managing these programs, while 105(l) leases provide compensation for the operating costs associated with facilities Tribes use to delivering these services.

The 105(l) program is an important component of federal-tribal partnerships and supports self-determination, as it is a critical avenue for ensuring that Tribal Nations have the financial resources needed to manage, operate, and maintain infrastructure that serves our communities. MPTN entered into its first 105(l) lease with the Department of Interior related to our public safety building during President Trump's first term.

Though mandatory by law, these funds are currently included in the discretionary budget, where they are subject to annual caps. Each year, these discretionary limits force hard choices across the Interior budget, often affecting essential services and resources for our communities. In FY 2024, contract support costs rose by 8%, and 105(l) leases by 34%, yet the overall IHS budget only saw a 0.05% increase. This imbalance led to cuts in other IHS facilities and services, a situation that is unsustainable under current discretionary allocations.

For nearly a decade, the Appropriations Committees have recognized the need to reclassify these accounts as mandatory. Keeping these costs under discretionary funding has stifled IHS and BIA budgets, forcing us to stretch limited resources despite rising medical inflation and growing Tribal populations. We are calling for mandatory funding for 105(l) leases in the BIA, BIE, and IHS budgets. While we firmly believe that all federal Indian programs and agencies should receive mandatory funding to honor the federal government's trust and treaty responsibilities, we strongly support the immediate transfer of contract support costs and 105(l) funding for IHS, BIA, and BIE to the mandatory side of the federal budget. This move is critical to ensuring the stability and predictability of funding for essential services in Indian Country.

Treasury Matters

MPTN urges Congress to make the Treasury Department's Office of Tribal and Native Affairs (OTNA) permanent and to continue the Tribal Treasury Advisory Committee. These entities are essential for providing technical assistance and guidance, and supporting Tribal Nations in accessing tax incentives and economic development tools. They also play a crucial role in ensuring appropriate Tribal consultation on tax and economic policies and facilitating government-to-government engagement. The OTNA is one of the best examples of federal outreach and assistance. Even with a small staff and limited budget, it has already had a positive

impact that far exceeds its cost. We also strongly support any steps Congress can take to urge the Treasury Department to complete rulemakings on the General Welfare Exclusion and Tribally Chartered Corporate Entities. Significant progress has been made for both rules, but it is imperative that Treasury reach the finish line.

Tax Parity

We strongly support legislation that would create tax parity for Tribal Nations seeking to diversify their economies and invest in their communities. Modernizing the federal tax code's treatment of Tribal governments and providing targeted economic development incentives will help Tribal Nations generate governmental revenue, deliver essential services, and build stronger reservation economies.

Key areas to address include:

- (1) 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. There is a tremendous gap in states' use of using tax-exempt government bonds when compared with Tribal Nations. Providing our governments full parity with state and local governments in accessing tax-exempt bond financing will enhance job creation, generate sorely needed governmental revenue, stimulate infrastructure and business development on tribal lands, and accelerate the diversification and resiliency of tribal economies.
- (2) Creating an annual New Market Tax Credit (NMTC) for low-income tribal communities. The 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. Establishing a credit set aside for Tribal Nations will enable more Tribal communities to access and grow the proven benefits that those who have already leveraged this important financing tool have generated.
- (3) Increasing the effectiveness of the Tribal Low-Income Housing Tax Credit (LIHTC) program. The LIHTC program provides tax incentives to developers to create affordable housing, but credits are often unavailable to Tribal Nations. We believe the definition of "difficult development area" should include an "Indian area" as defined in the Native American Housing Assistance and Self Determination Act of 1996 so that Tribal Nations are explicitly included in the LIHTC program criteria.

On behalf of the Mashantucket Pequot Tribal Nation, thank you for considering these points. We stand ready to work with you to advance these priorities and uphold the trust and treaty responsibilities that are the bedrock of the federal-tribal relationship.