



**Testimony of
Sarah Hicks, National Congress of American Indians (NCAI)
Welfare Program Director**

**To the Senate Committee on Indian Affairs
Regarding Implementation and Reauthorization of the
Personal Responsibility and Work Opportunity Reconciliation Act of 1996**

May 10, 2002

Chairman Inouye, Vice-Chairman Campbell, and members of the committee, I would like to thank you for inviting NCAI to testify on the implementation and reauthorization of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. As you know, the National Congress of American Indians, the oldest, largest and most representative organization of American Indian and Alaska Native tribes and individuals in the nation, has worked actively with tribal governments throughout the country on the implementation of welfare reform since the passage of P.L. 104-193. NCAI has facilitated an ongoing Welfare Reform Task Force composed of tribal representatives from all regions of Indian Country, and has coordinated a range of tribal activities relating to welfare reform implementation, improving state/tribal relationships, and exploring opportunities for increased tribal participation in local public policy development under a three-year grant from the W. K. Kellogg Foundation.

My name is Sarah Hicks, and I serve as the Director of the Welfare Reform Program at NCAI. Over the last five years, I've coordinated a range of tribal activities relating to welfare reform, and have had the remarkable opportunity to work with tribes throughout the country on the implementation of State and Tribal TANF and a host of related programs. For three years, NCAI has facilitated a workgroup of TANF tribes. In the absence of federal resources to provide technical assistance and share program knowledge, NCAI coordinated a peer-learning process based on information sharing meetings, where tribes met on one another's reservations, toured each other's programs, and, for the last two years, spent considerable time and energy on discussions focused on the reauthorization of the welfare reform law.

Within the last year, tribes have also entered into serious dialogue with states about welfare reform reauthorization. Through our partnership with the American Public Human Services

Association (APHS), NCAI and TANF tribes have made considerable headway in finding common ground between states and tribes on many reauthorization issues. This morning, I'm here to share with you three brief themes I have gathered in my work with the 36 Tribal TANF programs (serving 174 tribes), the many tribes that are still served by State TANF programs, and a variety of State TANF programs that serve large Indian TANF caseloads. In addition to my testimony today, a range of specific recommendations from our workgroup are discussed more thoroughly in an attachment to my formal statement, which I would like to submit for the record with my testimony.

First, tribes support welfare reform efforts. The concept of welfare reform resonates with American Indian and Alaska Native tribes. I have found Tribal governments to be universally in favor of individual responsibility and work coupled with appropriate community supports. Tribes are proponents of addressing issues comprehensively with a whole systems approach, looking holistically at family needs. Tribal governments have shown a strong preference for the flexibility to facilitate locally designed and administered programs that fit their unique community needs.

In many ways, the welfare reform law provided tribes with a good blueprint for change. But in its current form, I would have to say that the existing law has not brought enough change to Indian country. Due to the severe lack of jobs on reservations, work rates for Indian participants in both State and Tribal TANF programs are significantly below average. Poverty rates remain high on reservations. Many support services, such as child care and transportation, are largely unavailable on reservations. Job training programs have lengthy waiting lists in many cases. On other reservations, program participants are nearly "trained to death" but still can't get a job because of the lack of employment.

This leads me to my second point. The key to meaningful reform in tribal communities is flexibility. Too often welfare reform is thought of as encompassing only the Temporary Assistance for Needy Families program. And too often, tribal options around welfare reform implementation are seen by both tribes and states as either (1) a tribe receiving federal funding for the administration of TANF or (2) the tribe continuing to receive TANF benefits and services from the state. In actuality, there are a whole range of options between the decision "to TANF" or "not to TANF." Because the government closest to the people can provide the best service, we think that in the vast majority of cases, tribes are able to provide social services to their people more effectively than states. For the most part, states agree with us.

For a whole variety of reasons, tribes may decide not to administer a Tribal TANF program. In fact, according to GAO and the Congressional Research Service, 305 tribes (and close to 40,000 Indian families) are currently being served by State TANF programs. Further, as state TANF caseloads decline, an increasing percentage of welfare recipients on many state programs are Indian. Tribes that cannot financially afford to run TANF or that simply opt not to administer the program can still work with the State TANF program to develop the

necessary referral systems between various state and tribal support programs as well as to contract with the state for the tribal administration of case management or work and training components of TANF. In fact, many of the tribes that administer TANF contract some of the administrative functions (such as the distribution of assistance checks and federal reporting requirements) back to their respective states.

The bottom line is this: as with all locally designed programs, the key for successful Tribal TANF programs and State TANF programs serving Indian communities is flexibility in service delivery arrangements. This flexibility will also be critical in the potential of many states with large Indian populations to meet increased work requirements and work participation rates. Tribal TANF programs need to maintain the flexibility that we have: the flexibility to define our service area, service population and work activities, as well as to negotiate work requirements and work participation rates.

Tribes in Alaska face a unique limitation in the existing welfare reform law, are treated differently than tribes in the lower 48 states, and should be given the same flexibility as other tribes. The current law limits Alaskan tribes' flexibility through two provisions, the first of which gives the authority for direct Tribal TANF funding and administration in Alaska to 12 regional non-profit corporations instead of the state's federally-recognized tribal governments. This has a dramatic impact on tribal governments because Alaska's 227 tribes make up 40 percent of all tribes in the United States. Additionally, a second provision requires Tribal TANF programs in Alaska to be "comparable" to the state-operated TANF program. These provisions hinder self-determination and the ability of tribes in Alaska to make tribal-specific program decisions.

State governments also need increased flexibility. States need the ability to contract with tribes, allowing state TANF funds transferred to tribes to take on the identity of tribal funds. The states of Alaska, Minnesota and Washington already use TANF funds to contract with tribes for the provision of job training and workforce development activities. But, with increased flexibility, state TANF programs could contract with tribes for employment and training services, enabling tribes to report to the federal government in their existing annual tribal employment program reports on the use of funds, relieving states of the undesirable responsibility of "monitoring" tribal activities. Precedent for this kind of arrangement already exists when states transfer TANF funds to the Child Care Development Block Grant and to the Title XX Social Services Block Grant.

My third point is that the notion of welfare reform is much broader than TANF. TANF is a flexible funding stream to provide time-limited assistance for poor families and facilitate their climb on the ladder to self-sufficiency. The linkages between TANF and many other social support and assistance programs are well-documented. We should think about welfare reform in Indian country with a similar view. The formula for meaningful welfare reform includes:

- Financial assistance programs for poor and fragile families, including TANF, Child Support, and Foster Care;
- Related support services that enable recipients to get and keep a job, such as child care, transportation, mental health care, substance abuse treatment, and other needed support systems;
- Job training programs to build skills for work, qualifying recipients for available jobs; and
- Tribal economic development to provide recipients jobs at which they can earn a living wage and become self-sufficient.

In our work with APHSA, tribes have begun to discuss the continuum of tribal administration of human service programs on their reservations. In some cases, tribes administer all of the programs for which they have the authority to receive direct funding and contract with states to administer others. The welfare reform reauthorization debate is likely to continue to raise issues relating to the desire of some tribal governments to administer other TANF-related programs, like Title IV-E Foster Care, the Social Services Block Grant, the Food Stamp Program, Medicaid, and the Children's Health Insurance Program, none of which are currently available to tribes.

As tribes continue to build more comprehensive local service delivery systems, providing better access to services and closer ties to local jobs, the well-being of tribal citizens is improving. Tribes are increasingly capable of administering more sophisticated and complex service systems. As the opportunity to administer new programs becomes available to tribes, flexible rules and program options must be in place. Tribes strongly concur with DHHS Secretary Tommy Thompson's statement that "Barriers must not become excuses—either for government or for former welfare recipients, especially if we can work together to improve matters and move more people to the workforce." State-tribal coordination and collaboration to serve reservation-based families underpins the ability of governments to deal with barriers.

The importance of economic development to successful welfare reform implementation cannot be overstated. As my colleagues Drs. Eddie Brown and Stephen Cornell have stated, "Even if the funding problems with TANF and its related training programs can be solved... and even if federal policy were to provide Indian nations with more flexibility and control over the design and implementation of reform, a sobering fact remains: without an economic growth strategy, welfare reform in Indian country will fail." Welfare reform reauthorization must address the need for economic growth to support employment on reservations.

A two-pronged approach is necessary. First, tribes need more flexibility to use existing resources; legislation like S.343, the Indian Tribal Development Consolidated Funding Act, is one such tool. Second, tribes need additional resources—both for economic infrastructure and direct job creation. In terms of infrastructure, tribes desperately need to

develop better transportation systems and create a more business-friendly environment. Transportation is critical both for human capital development (getting people to training opportunities and jobs) as well as important infrastructure for the distribution of goods and services both on and off of reservations. Creating a more business-friendly environment on reservations requires uniform commercial codes, tort liability codes, collaborative business networks, telecommunications infrastructure, and tribal marketing efforts. Development grants to provide targeted, concrete technical assistance to tribes in these areas would be a worthwhile and fairly inexpensive way to really facilitate economic growth on Indian reservations. Finally, the expansion of tribal authority to issue private activity bonds for reservation-based economic activity is a way to directly create jobs on reservations.

In closing, there's no doubt that many Tribal TANF Programs have been successful in creatively addressing the challenges they face. Tribal TANF programs are doing what most states have had considerable difficulty in doing: working intensely with multiple barrier families on reservations. Tribal TANF has given tribal members access to support services and job opportunities and has resulted in TANF recipients increasingly being involved in meaningful work activities and making progress on Individual Responsibility Plans. Tribal TANF programs have been able to facilitate limited economic development (particularly in the area of microenterprise) and job creation. Tribal TANF programs have worked closely with faith-based organizations, emphasized family formation and responsible fatherhood activities, and reduced teen pregnancies. However, in examining the areas of federal welfare reform policy that could be refined to yield far-reaching results in Indian country, it is clear that reauthorization must include the following:

- Building Tribal TANF infrastructure by providing resources for Tribal TANF start-up, Management Information Systems, and staff training;
- Accessing sufficient on-going TANF administration resources by providing incentives for adequate State TANF contributions to Tribal TANF programs or making a commitment for the full federal funding of Tribal TANF;
- Establishing equity for Tribal TANF through access to the same resources state programs enjoy (such as the high performance bonus, the Contingency Fund, Technical Assistance, and Research); and
- Economic development in Indian country with increased flexibility to use existing resources and increased resources for development infrastructure and job creation.

Overall, tribes strongly support welfare reform reauthorization and look forward to taking the next step to bring increased opportunity to Indian reservations. We commend the committee for its commitment to Indian Country, and appreciate its focus on welfare reform, an issue that profoundly affects the well-being of Indian people. Thank you for your invitation to testify, and I welcome any questions that you might have.

(See Attachment: NCAI Comments to DHHS on TANF Reauthorization)