



# NATIONAL CONGRESS OF AMERICAN INDIANS

## House Subcommittee on Highways and Transit

### U.S. House of Representatives

## June 24<sup>th</sup> Hearing on “Meeting the Transportation Needs of Rural America”

July 08, 2015

On behalf of the National Congress of American Indians (NCAI), thank you for the opportunity to provide testimony for the record regarding surface transportation and its impact on tribal governments in rural America. NCAI is the oldest and largest national tribal organization in the United States that is dedicated to protecting the rights of tribal governments to achieve self-determination and self-sufficiency. NCAI applauds the House Subcommittee on Highways and Transit for holding this oversight hearing on transportation in rural America. NCAI looks forward to working with members of this Subcommittee as you continue your work on the next reauthorization of a transportation bill and its impact on rural America.

There are 567 sovereign tribal nations with a formal nation-to-nation relationship with the US government. These tribal nations are located within the geographic borders of the United States, however each tribal nation exercises its own sovereignty and each of the tribal governments are legally defined as “federally recognized tribes.” Two-hundred-and-twenty-nine of these tribal nations are located in Alaska; the remaining tribes are located in 35 other states. In total, tribal governments exercise jurisdiction over lands that would make Indian Country the fourth largest state in the nation. The land base of the Navajo Nation alone would make it the 43<sup>rd</sup> largest state in the Union and 19 tribal nations are each larger than the state of Rhode Island.<sup>1</sup>

In the 2010 Census, 5.2 million people or 1.7 percent of the US population identified as American Indian/Alaska Native (AIAN) alone or in combination with other races. This population would make Indian Country the 22<sup>nd</sup> most populous state. States with the highest proportion of Native people include: Alaska (19.5 percent), Oklahoma (12.9 percent), New Mexico (10.7 percent), South Dakota (10.1 percent), Montana (7.9 percent), North Dakota (6.4 percent), Arizona (5.5 percent), Wyoming (3.3 percent), Washington (3.0 percent), and Oregon (2.9 percent).<sup>2</sup> Although less than two percent of the population in rural and small town areas identified as Native American in 2010, more than half of all AI/AN live in rural or small town areas.<sup>3</sup>

#### EXECUTIVE COMMITTEE

PRESIDENT  
**Brian Cladoosby**  
*Swinomish Tribe*

FIRST VICE-PRESIDENT  
**Randy Noka**  
*Narragansett Tribe*

RECORDING SECRETARY  
**Aaron Payment**  
*Sault Ste. Marie Tribe of Chippewa  
Indians of Michigan*

TREASURER  
**Arlan Melendez**  
*Reno Sparks Indian Colony*

#### REGIONAL VICE-PRESIDENTS

ALASKA  
**Jerry Isaac**  
*Native Village of Tanacross*

EASTERN OKLAHOMA  
**S. Joe Crittenden**  
*Cherokee Nation*

GREAT PLAINS  
**Leander McDonald**  
*Spirit Lake Nation*

MIDWEST  
**Roger Rader**  
*Pokagon band of Potawatomi*

NORTHEAST  
**Lance Gumbs**  
*Shinnecock Indian Nation*

NORTHWEST  
**Fawn Sharp**  
*Quinault Indian Nation*

PACIFIC  
**Rosemary Morillo**  
*Soboba Band of Luiseno Indians*

ROCKY MOUNTAIN  
**Ivan Posey**  
*Shoshone Tribe*

SOUTHEAST  
**Ron Richardson**  
*Haliwa-Saponi Indian Tribe*

SOUTHERN PLAINS  
**Stephen Smith**  
*Kiowa Tribe*

SOUTHWEST  
**Manuel Heart**  
*Ute Mountain Ute Tribe*

WESTERN  
**Len George**  
*Fallon Paiute Shoshone Tribe*

EXECUTIVE DIRECTOR  
**Jacqueline Johnson Pata**  
*Tlingit*

#### NCAI HEADQUARTERS

1516 P Street, N.W.  
Washington, DC 20005  
202.466.7767  
202.466.7797 fax  
www.ncai.org

<sup>1</sup> National Congress of American Indians (2013), *A Brief Introduction to Tribal Nations & the United States: Nations within a Nation*, p2.

<sup>2</sup> Ibid, p3.

<sup>3</sup> Housing Assistance Council Rural Research Brief, *Race and Ethnicity in Rural America*, April 2012

Tribes also represent important employers and economic engines in many rural communities (and a number of urban areas). The 38 tribal nations in Oklahoma have a \$10.8 billion impact on the state every year, supporting an estimated 87,000 jobs, or five percent of all jobs in the state. In Washington state, the 29 tribal nations employ more than 27,300 in tribal government, pay more than \$1.3 billion annually in employee wages and benefits, buy more than \$2.4 billion annually in goods and services from private companies, and generate more than \$255 million annually in state and local taxes. In Minnesota, spending by the 11 tribal nations was responsible for \$2.75 billion in economic activity statewide, supporting 41,700 jobs.<sup>4</sup>

The socioeconomic profile of Indian Country mirrors that of many other communities of color. Many Native people lack access to basic infrastructure other Americans take for granted – 15 percent of Native homes are overcrowded (compared to 6 percent nationally), 14 percent lack access to electricity, and 12 percent lack complete plumbing (national rates are both less than 1 percent). Native communities face similar deficiencies in the quality of transportation infrastructure and similar barriers to accessing reliable and affordable transportation (detailed in the next section).<sup>5</sup> However, the difference between tribal nations – and their citizens – is that transportation is not only an issue of racial equity but of governmental coordination and the federal government meeting its trust responsibility to tribal nations.

Like states, counties, urban and rural areas, tribal governments rely on our Nation's multimode transportation system. The enhancement of transportation infrastructure is vital to tribal economies. Providing safe and adequate transportation infrastructure is essential to tribal governments and surrounding communities. Like state and local governments, tribal governments use their revenues to deliver essential services to their citizens. However, tribal governments are not commonly in a position to levy property or income taxes because of the unique nature of land tenure in Indian Country, delicate economies, and jurisdictional restraints. Indian tribes receive some funding for road construction from the federal Highway Trust Fund, but the amount given to tribes is much less than what states receive. Currently, the Tribal Transportation Program (TTP) make-up nearly three percent of federal roadways, but they receive less than 0.5 percent of total federal highway funding.<sup>6</sup> At the current funding levels, the TTP program receives only about half the amount per road mile that states receive. Income from tribal businesses is the primary non-federal revenue source for most tribes, nonetheless, sales and excise taxes are becoming an increasingly important source of revenue for tribal governments.

The transportation infrastructure system is critical to supporting tribal economies, which continue to face challenges of rampant unemployment in Indian Country. According to the Census Bureau, the unemployment rate for the Indian workforce in federal reservation areas is 22.6 percent, close to two-and-a-half times that for all workers nationally, compared to the current U.S. employment rate at 5.6 percent for the same time period. Boosting job opportunities on tribal lands is an integral part of tribal governments' plans to enhance tribal economies.

---

<sup>4</sup> National Congress of American Indians (2013), *Securing our Futures*, p8

<sup>5</sup> National Congress of American Indians (2013), *A Brief Introduction to Tribal Nations & the United States* pp4-6

<sup>6</sup> U.S. Dept. of Transportation, Federal Highway Administration, TEA-21, A Summary (1998).

In order for tribal governments to develop and strengthen their economies, a necessary component tribes' need is transportation infrastructure. Tribal transportation programs are critical to ensuring that tribal governments can provide for the economic and social well-being of their tribal citizens and members of the surrounding communities. Transportation infrastructure includes many modes, such as roads, bridges, ferries, trails, air, and transit, all which must be adequate, well-maintained, and safe. Transportation infrastructure is essential for Indian children going to school; emergency and law enforcement personnel responding to emergency situations; and for businesses on tribal lands to bring and sell goods.

#### Tribal Transportation Program:

The latest National Tribal Transportation Facility Inventory (NTTFI) indicates there are approximately 160,000 miles of roads and trails in Indian Country owned and maintained by the Bureau of Indian Affairs (BIA), tribes, states and counties. Of those, Indian tribes own and maintain 13,650 miles of roads and trails, of which only 1,000 (or 7.3 percent) are paved— and 12,650 miles are gravel, earth, or primitive. These 12,650 miles of roadways are still among the most underdeveloped and unsafe road networks in the nation, even though they are the primary means of access to American Indian and Alaska Native communities by tribal and non-Indian residents and visitors alike. Of the 29,400 miles owned and maintained by the BIA, 75 percent of them are graveled, earth, or primitive.

Unfortunately, safety issues continue to be one of the biggest challenges for Indian tribes because many tribal communities are made vulnerable by unsafe and often inaccessible roads, bridges, and ferries. According to the Federal Highway Administration, “American Indians have the highest rates of pedestrian injury and death per capita of any racial or ethnic group in the United States.”<sup>7</sup> Over the past 25 years, 5,962 fatal motor vehicle crashes occurred on Indian reservation roads, with 7,093 lives lost.<sup>8</sup> While the number of fatal crashes in the nation declined 2.2 percent during this time period, the number of fatal motor vehicle crashes per year on Indian reservations increased 52.5 percent. Adult motor vehicle-related death rates for American Indians/Alaska Natives are more than twice that of the general population.<sup>9</sup> These statistics are alarming and call for major changes in Federal transportation safety programs serving Indian Country.

The current authorization, Moving Ahead for Progress in the 21st Century (MAP-21) restructured the transportation programs for Indian tribal governments by establishing and consolidating the Tribal Transportation Program (TTP) (formerly the Indian Reservation Programs), eliminating the separately funded TTP Bridge Program and Tribal High Priority Project Program (THPP) and creating discretionary grants within the TTP for tribal bridges and highway safety programs and projects. MAP-21 changed the regulatory funding formula for allocating TTP “tribal shares” for transportation construction that the BIA and FHWA must phase in over a number of years. NCAI

---

<sup>7</sup> US Department of Transportation, Federal Highway Administration. (2004). Pedestrian Safety in Native America. FHWA-SA-04-007

<sup>8</sup> US Department of Transportation, National Center for Statistics and Analysis. (2004). Fatal Motor Vehicle Crashes on Indian Reservations 1975 - 2002

<sup>9</sup> Ibid.

would like the Congress to support and enhance funding for the Tribal Transportation Program so that tribes are able to provide safe and acceptable transportation systems in Indian Country.

Tribal High Priority Project Program:

The THPP is a critical program that provides funding to tribes impacted by emergency conditions that require road or bridge replacement so funding can be accessed quickly. Also, the THPP fund enables tribes who received insufficient funding to compete for grants of up to \$1,000,000 to complete the highest priority project on the tribe's inventory. The elimination of this program has had a significant impact on many tribes who are unable to embark on imperative construction projects because their annual tribal shares represent only a small fraction of the total project construction cost. As noted, MAP-21 removed the funding stream of the THPP from the Highway Trust Fund and placed it into the U.S. Treasury General Fund, and was authorized for \$30 million. Since the enactment of MAP-21, THPP has not been appropriated. NCAI requests Congress restore this vital program to assist tribes who would be unable to construct transportation projects without the assistance of the THPP in the Highway Trust Fund.

Tribal Transportation Self-Governance Program:

The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, enabled tribal governments to decide if BIA or Federal Highway Administration (FHWA) would administer their TTP program. Under 23 U.S.C. 202(a), the Secretary of Transportation was authorized to enter into agreements with tribal governments to carry out highway, road, bridge, parkway, or transit program or projects. This enables tribes to directly work with the FHWA in the administration of their TTP program. The BIA can also enter into an agreement with a tribal government to carry out their transportation program.

Earlier this year, H.R. 1068, Tribal Transportation Self-Governance Act of 2015, was introduced by Congressman Peter DeFazio. This legislation would create and expand the Tribal Self-Governance Programs within all of U.S. Department of Transportation (DOT). Currently, there are 128 Indian tribes who have entered into an agreement with FHWA. These agreements are critically important to participating tribes who are able to efficiently construct their transportation programs within a timely manner, especially for the tribes who have a very short construction season. NCAI supports this creation and expansion of tribal transportation self-governance within DOT.

Public Transportation on Indian Reservation Section 5311(c):

Many tribes operate a transit service, and public transportation is important to economic growth in Indian Country. Public transportation offers access to employment, health, education and commerce for tribal member and non-tribal members. As mentioned earlier, high unemployment has been a continuous challenge for tribes. Currently, the unemployment rate for on-reservation Indians is 22.6 percent, while for Alaska Native villages it is 25.1 percent.<sup>10</sup> In addition, 15 percent of tribal

---

<sup>10</sup> U.S. Census, 2005-2009 American Community Survey 5-Year Estimates

members have to travel over 100 miles to access basic services, such as a bank or ATM<sup>11</sup>. The combination of high unemployment and the far distance to access basic services has resulted in increased ridership and continued need for public transportation in Indian Country and surrounding non-Indian rural communities. MAP-21 revamped the Section 5311(c) Public Transportation on Indian Reservations Program (Tribal Transit Program) administered by the Federal Transit Administration by establishing a statutory formula for allocating transit funds among eligible Indian tribes, and increased funding. NCAI requests Congress to continue to support and fund this program.

#### Rural Safety:

Safety issues for Indian tribes are urgent because many tribal communities are affected by unsafe and often inaccessible roads, bridges, and ferries. Indian Country suffers injury and death driving and walking along reservation roadways at rates far above the national average. According to the Federal Highway Administration, Native people face the highest rates of pedestrian injury and death per capita of any racial or ethnic group nationally, and AI/AN adult motor vehicle-related deaths are more than twice that of the general population.<sup>12</sup> Over the past 25 years, 5,962 fatal motor vehicle crashes occurred on Indian reservation roads, with 7,093 lives lost. While the number of fatal crashes in the nation declined 2.2 percent during this time period, the number of fatal motor vehicle crashes per year on Indian reservations increased 52.5 percent. These statistics are shocking and cry out for major changes in Federal transportation safety programs serving Indian Country.

Currently, Indian tribes receive a two percent set-aside from the National Highway Traffic Safety Administration (NHTSA) Highway Traffic Safety Grant Section 402 which is administered by BIA and funded at \$4.7 million for FY 2014. The purpose of Section 402 is to support highway safety plans to reduce fatalities and injuries on highways. According to the BIA Indian Highway Safety Program (25 CFR PART 181), this program is a competitive grant program, and is meant to assist tribes with their proposed Highway Safety Projects. The plans aim to reduce traffic crashes, reduce impaired driving crashes, increase occupant protection education, provide Emergency Medical Service training, and increase police traffic services. Indian tribes have expressed concern over the accountability and efficiency the BIA Indian Highway Safety Program is providing to Indian tribes for highway safety projects. In reviewing grant awards, tribes have noted that the grants being awarded within the BIA Indian Highway Safety Plan are awarded for law enforcement initiatives and are not going to other safety prevention programs, leaving tribes, in effect, with no access to safety funding. NCAI recommends: (1) the establishment of a two percent direct tribal funding set-aside from the Highway Safety Improvement Program for the purpose of reducing traffic fatalities and injuries on tribal transportation systems; and (2) to increase the current set-aside of two percent for tribes for the NHTSA Highway Safety Grant to three and half percent.

---

<sup>11</sup>U.S. Department of Treasury Community Development Financial Institutions Fund, *Native American Lending Study*, page 22, (2001) [http://www.cdfifund.gov/what\\_we\\_do/nacd/lending\\_study.asp](http://www.cdfifund.gov/what_we_do/nacd/lending_study.asp)

<sup>12</sup> US Department of Transportation, Federal Highway Administration. (2004). Pedestrian Safety in Native America. FHWA-SA-04-007

### Safe Route to School:

The Safe Route to School Program<sup>13</sup> was created under SAFETEA-LU within the FHWA and is administered by State Departments of Transportation. Each State has its own administering guidelines for applying for Safe Routes to School program. This program received a total of \$612 million for the fiscal years of 2005 to 2009, and each State funding is formula based. The Safe Routes to School Program provides funds to States to improve the ability for primary and middle school students to safely walk and bike to school. Furthermore, the program assists schools within a two-mile square radius to plan, develop, and implement safety projects and activities to reduce traffic and fuel consumption and encourage active lifestyles.

There are over 741 public schools located in American Indian and Alaskan Natives areas, with a total of 82,406 Native students. The Bureau of Indian Education serves approximately 50,155 Native students at 181 elementary and secondary schools.<sup>14</sup> Many of these schools are located in remote and rural areas, where students have to be bused for more than 50 miles.

NCAI supports programs that promote safety and active healthy lifestyles of school students. However, NCAI is concerned about the inability to know the number of schools on tribal lands who have successfully applied and been awarded funding under the Safe Route to School program. Since each State Transportation Departments and their coordinators administered the program, it is difficult to determine who and how many public schools on Indian reservations have benefited from this program. In addition, the Bureau of Indian Education (BIE) schools are not eligible to receive this funding.

NCAI recommends this Committee consider amending the statutory language of the Safe Route School Program to enable BIE schools to be eligible to receive funding; to create a tribal set-aside for public, bureau, charter, Impact Aid, and grant schools on tribal lands to be able to participate in this program; and to increase the two mile radius requirement. Naturally, this produces additional questions on the issue of who would administer this program for these schools, and the amount of funding. NCAI looks forward to working with this Committee on this matter.

### Bureau of Indian Affairs Roads Maintenance:

Even though the majority of tribal transportation programs are authorized and funded through the Department of Transportation, another transportation program is critical for tribes: the Bureau of Indian Affairs (BIA) Road Maintenance program within the Department of Interior. BIA implements, funds, and is responsible for maintaining 29,400 miles of roads in Indian Country including 900 bridges. NCAI is concerned that the funding for the BIA Road Maintenance has not increased for several fiscal year cycles and funded approximately \$24 million. This unchanged funding level has compromised highway safety in Indian Country, dramatically shortening the useful life of the BIA System and tribal roads and bridges, and undermining tribal economic development

---

<sup>13</sup> Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, Pub. L. 109-59, § 1404, 119 Stat. 1228, 86-88 (2005)

<sup>14</sup> IES National Center for Educational Statistical Common Core of Data, *Public and BIE elementary and secondary schools: number of schools and enrollment in the American Indian and Alaska Native Areas, 2005-06 and 2007-08*, Table 1, (2010), [http://nces.ed.gov/ipeds/data/ipeds\\_datacenter/ipeds\\_datacenter.asp](http://nces.ed.gov/ipeds/data/ipeds_datacenter/ipeds_datacenter.asp)

initiatives in Indian Country. For FY 2014, deferred maintenance for BIA roads is approximately \$289 million and increasing. These staggering amounts of deferred maintenance on BIA roads directly impacts tribes. Indian Country cannot afford to divert their scarce resources to address the resulting high costs of transportation infrastructure that is BIA's responsibility. The Bureau of Indian Affairs is a trustee and must provide enough funding to address the ever growing deferred maintenance for BIA roads.

In conclusion, NCAI is committed to bolstering and enhancing upon the many successes of current and past transportation authorizations, because tribal transportation infrastructure in rural America is fundamental to the enrichment of tribal governments and surrounding non-Indian rural communities.