

# TRIBAL TRANSPORTATION: PATHWAYS TO SAFER ROADS IN INDIAN COUNTRY

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## HEARING

BEFORE THE

## COMMITTEE ON INDIAN AFFAIRS UNITED STATES SENATE

ONE HUNDRED FOURTEENTH CONGRESS

FIRST SESSION

APRIL 22, 2015

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## **TRIBAL TRANSPORTATION: PATHWAYS TO SAFER ROADS IN INDIAN COUNTRY**

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**WEDNESDAY, APRIL 22, 2015**

U.S. SENATE,  
COMMITTEE ON INDIAN AFFAIRS,  
*Washington, DC.*

The Committee met, pursuant to notice, at 2:39 p.m. in room 628, Dirksen Senate Office Building, Hon. John Barrasso, Chairman of the Committee, presiding.

### **OPENING STATEMENT OF HON. JOHN BARRASSO, U.S. SENATOR FROM WYOMING**

The CHAIRMAN. Next we will go to the oversight hearing. We are in order for that, too. I call this hearing to order.

I appreciate the attendance. We are in the middle of six roll call votes, but a number of folks have traveled great distances to be here and we want to make sure that everyone has their voices heard in this important hearing. Moving forward, some of us will be moving in and out of the Committee during the discussions, so that we can vote and not have to disrupt the activity here.

Before we get started, I want to welcome John Smith from the Wind River Reservation in Wyoming, who is better known to all of us in Wyoming as Big John. And to Del McOmie, from the Wyoming Department of Transportation. Both of these men will be testifying today. Together they have worked hard to improve road safety on the Wind River Reservation.

In fact, Big John's work was recognized by the President in May of 2014, when he was named a Champion of Change. The White House stated that John "has succeeded in improving the reservation's transportation infrastructure, highways and bridges, has led the effort to dramatically cut alcohol-involved crashes and fatalities on the Wind River Reservation. He has worked with tribal leaders to toughen tribal laws to enhance seat belt compliance and has led the effort to use positive messaging to educate drivers of all ages about the dangers of drinking and driving." So thank you, Mr. Smith, for being with us today.

Big John is accompanied by his Deputy Director, Howard Brown, also from the Wind River Indian Reservation.

As these men so well know, there are many roads and bridges on Indian Reservations in desperate need of improvement. In some places, heavy rain or snow can wash out a bridge or road, cutting off access to schools, jobs and essential services. There are many reservation roads which are quite hazardous to traverse. According

to the Bureau of Indian Affairs, only 17 percent of the roads are considered to be in acceptable condition. The remainder is considered to be in poor and unacceptable condition.

According to the National Congress of American Indians, these roads “are among the most under-developed and unsafe road networks in the Nation, even though they are the primary means of access throughout these communities.” The Centers for Disease Control lists motor vehicle crashes as the leading cause of death for Native American children. Indian infants under the age of one year old are eight times more likely to die in a vehicle-related crash than other children.

The Wind River Reservation in my State is no exception. Despite significant improvements achieved by the two tribes, The Eastern Shoshone and The Northern Arapaho and the State of Wyoming, more work needs to be done. According to the Wyoming Technology Transfer Center, the Wind River Reservation still has the highest percentage of critical crashes when compared to the State and local roads. The Wind River Reservation leads the State in motor vehicle crashes for people ages 24 to 34.

Last year, the two tribes, along with the State, did complete construction on what is commonly called the 17 Mile Road. It was an extremely dangerous road. Crashes and deaths occurred on that road all too often. But thanks to the diligent efforts of the tribes and the State, those who are here with us today, the 17 Mile Road is now much safer.

So we will hear from our witnesses today how successful planning and joint efforts, such as what occurred in Wyoming, can save lives and improve whole communities.

At this time, I would like to ask the Vice Chairman if he has any comments.

**STATEMENT OF HON. JON TESTER,  
U.S. SENATOR FROM MONTANA**

Senator TESTER. I do, and thank you, Mr. Chairman. Thank you for holding this hearing on Pathways to Safer Roads in Indian Country. It is an issue that is critical to Indian Country. It touches my home State of Montana in a big, big way. The fact that we need safe roads in Indian Country is no exception.

Coming from a State as large as Montana, we know a thing or two about windshield time. We also know how important these roads are to connect commerce, education, health, and the industry of our State. Safe and adequate roads and highways are critical to public safety, health and education.

Yet throughout Indian Country, we see the maintenance and upkeep of these important highways often neglected or woefully underfunded. On some Indian reservations, children spend over two hours a day traveling to and from school on roads that are not adequate. And this is when there is actually transportation that is available.

Far too often, we hear about pedestrians being struck while walking along reservation roads, which lack safe walkways, and are some of the most remote and deficient roads in this Country. The dire conditions of these roads also lead to delayed response times for law enforcement, for medical professionals. According to

the Federal Highway Administration, American Indians have the highest rates of pedestrian injury per capita, and this is deaths per capita, of any racial or ethnic group in the United States. Motor vehicle crashes are the leading cause of death for American Indians and Alaska Natives age 1 to 44. And on average, they are responsible for killing two American Indians or Native Alaskans every day.

The data shows it is only getting worse. Over the past 25 years, almost 6,000 fatal motor vehicle crashes occurred on Indian reservation roads, and over 7,000 lives were lost in these preventable tragedies. While the number of fatal crashes in the United States declined 2.2 percent during this time period, the number of fatal motor crashes per year in Indian Country raised 52.5 percent. These statistics are extremely troubling.

To begin to reverse this trend, we need to start by passing a long-term Highway Bill. The tribes need funding that is predictable, that a long-term Highway Bill would provide, and would also give them opportunity to implement adequate safety plans.

In addition, we need to make sure the tribal transportation programs are adequately funded. This means authorizing current funding levels plus inflation at the very least.

So as we work toward reauthorizing the Highway Bill, MAP-21, which expires next month, we have the opportunity to not only address the safety challenges existing in Indian Country but also make critical investments to Indian tribal infrastructure. These investments can expand economic development opportunities and are crucial to improving the quality of life on tribal lands. Importantly, these investments are in line with the Federal Government's treaty and trust responsibility to American Indians.

I look forward to working with the members of this Committee as well as you, Mr. Chairman. I know you will have a say in MAP-21 in your position on EPW.

But before we move to the witnesses, I want to recognize a couple of folks. First, I want to welcome Mr. Rick Kirn, who serves on the Tribal Executive Board at the Fort Peck Assiniboine and Sioux Tribes in Montana. I want to thank you for making the trek out to Washington, D.C., Rick. I look forward to hearing from you and all the witnesses today.

And I would be remiss if I didn't point out that there was one Chris Lambert in the crowd. Chris used to work for the Honorable Max Baucus from the great State of Montana, and we appreciate him working for Indian Country at this point in time in his career.

The CHAIRMAN. Thank you very much, Senator Tester. As you said, Congress is currently considering reauthorization of the Transportation Bill. As we debate this measure, we need solid recommendations that build upon tribal successes and provide a path for safer roads.

So I am delighted to have all the witnesses here, but before turning to them, I would like to ask Senator Franken if he would like to make any comments.

**STATEMENT OF HON. AL FRANKEN,  
U.S. SENATOR FROM MINNESOTA**

Senator FRANKEN. I would love to go to the testimony. I will say a little something at the beginning of my questioning.

The CHAIRMAN. Great. With that, we will start with Mr. Michael Black, Director of the Bureau of Indian Affairs, United States Department of Interior, Washington, D.C.

**STATEMENT OF MICHAEL S. BLACK, DIRECTOR, BUREAU OF  
INDIAN AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR**

Mr. BLACK. Good afternoon, Chairman Barrasso, Vice Chairman Tester, Senator Franken. Thank you for inviting the Department of Interior the opportunity to provide testimony at this oversight hearing on the topic of Tribal Transportation: Pathways to Safer Roads in Indian Country.

The Department and BIA remain committed to improving and adequately maintaining transportation systems to provide increased public safety and economic development opportunities in Indian communities. The Surface Transportation Assistance Act of 1982 established the Indian Reservation Roads Program, funded with the highway account of the Highway Trust Fund. Since the establishment of the IRR program and its successor as part of MAP-21, which is now called the Tribal Transportation, or TTP program, the total Federal counts for construction and authorization for tribal transportation has exceeded \$8.5 billion. These investments have contributed greatly to the improvement of unsafe roads and replacement or rehabilitation of deficient bridges on or near reservations throughout Indian Country.

Today the National Tribal Transportation Facility Inventory consists of over 160,000 miles of public roads with multiple owners, including Indian tribes, the BIA, States, counties, as well as other Federal agencies. There remains a great and continuing need to improve the transportation systems throughout Indian Country.

The BIA Road Maintenance Program, funded through DOI appropriations, has traditionally been responsible for maintaining only roads owned by the BIA. Today, of the 148,000 miles of existing roads in the inventory, the BIA has responsibility for approximately 29,500 miles of roads designated as BIA system roads.

The BIA receives approximately \$25 million annually for the administration of the road maintenance program for those roads. The fiscal year 2014 deferred maintenance for BIA roads was estimated at \$290 million. The Administration's fiscal year 2016 budget reflects the President's continued commitment to addressing the transportation needs of Indian and Alaska Native communities. This budget recognizes that supporting safe and reliable transportation on public roads, access to and within Indian Country, contributes to stronger tribal economies, communities and families.

Highlights of the 2016 budget request for the Tribal Transportation Program include: program funding is increased from \$450 million to \$507 million. The increased amount is targeted toward new and/or increased set-asides. The tribal high priority projects program is integrated back into the core program as a 7 percent set-aside. MAP-21 had authorized this as a separate program funded from the general fund.



Increased the tribal planning setaside from 2 percent to 3 percent to address additional data collection requirements. Increased the tribal bridge setaside from 2 percent to 4 percent to address the growing backlog of tribal bridge needs. The program structure and funding formula under MAP-21 are retained.

The 2016 budget also includes \$150 million for rehabilitation, construction or reconstruction of large nationally significant transportation infrastructure within or providing access to Federal or tribal lands. The Department is currently working with Congress on the transportation reauthorization legislation known as the Grow America Act. As Congress moves forward with transportation reauthorization, the Department continues to note the most significant impact to TTP under the current MAP-21 is implementation of the new formula established under MAP-21.

MAP-21's annual allocation for the TTP is equal to the amount for the last year of SAFETEA-LU. However, one significant difference is that the current formula makes more TTP funding available for distribution to tribal shares. This has allowed more funding to be directed toward tribal priorities.

Although more funding is allocated to tribes for their priorities, certain programs have decreased shares under MAP-21. The Bridge program has decreased significantly from a separate program of \$14 million a year to a setaside program of less than \$9 million a year. However, the bridge setaside proposed in the 2016 budget would address this concern by providing approximately \$20 million to address critical bridge needs in Indian Country.

The number of BIA bridges which were deficient or functionally obsolete and are eligible for replacement or rehabilitation is approximately 178 out of 930 total bridges, or 19.1 percent of the total. The estimate cost of replacing or rehabilitating these bridges is \$53.2 million.

In addition, the requirement to perform safety inspections on all 930 tribally-owned bridges has not been adequately funded. The estimated cost for inspecting the tribally-owned bridges along with the BIA bridges is \$3 million every other year, or approximately \$1.5 million per year.

The Bureau of Indian Affairs and the Department are committed to working with this Committee and others in Congress to address the transportation needs in Indian Country through our support for the tribal transportation program, road maintenance program and other Title 23 U.S.C. funding provided for transportation in Indian Country.

Thank you for the opportunity to present testimony on an issue that is an important part of the employment, economic infrastructure and road safety for tribes. I will be happy to answer any questions you may have.

[The prepared testimony of Mr. Black follows:]

PREPARED STATEMENT OF MICHAEL S. BLACK, DIRECTOR, BUREAU OF INDIAN AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR

Good afternoon Chairman Barrasso, Vice Chairman Tester, and members of the Committee. Thank you for inviting the Department of the Interior (Department) to provide testimony at this oversight hearing on the topic of "Tribal Transportation: Pathways to Safer Roads in Indian Country." My name is Mike Black, and I am the Director of the Bureau of Indian Affairs (BIA) at the Department.

The Department and the BIA remain committed to improving and adequately maintaining transportation systems to provide increased public safety and economic development opportunities in Indian communities. Safe roads are important when transporting people in rural areas to and from schools, to local hospitals, and for delivering emergency services. In addition, transportation networks in American Indian and Alaska Native communities are critical for economic development in such communities because these transportation networks provide access to other economic markets. I appreciate this opportunity to share with the Committee some of our accomplishments and also our concerns for tribal transportation as we implement MAP-21 and look to reauthorization of this important law.

### **Overview**

The BIA and the Federal Highway Administration within the Department of Transportation (FHWA) have been involved in the repair, construction and reconstruction of roads on Indian Reservations since the 1920s. From 1950 until 1983, Congress appropriated annual construction and maintenance funds to the BIA to maintain, repair and construct roads on Indian Reservations through the Department of the Interior. During this time, approximately \$1.2 billion was provided for both construction and maintenance of reservation roads.

### **Tribal Transportation Program**

The Surface Transportation Assistance Act of 1982 established the Indian Reservation Roads (IRR) Program funded within the Highway Account of the Highway Trust Fund (HTF). Since the establishment of the IRR Program and its successor as part of MAP-21, which is now called the Tribal Transportation Program (TTP), the total Federal construction authorization for Tribal Transportation has exceeded \$8.5 billion. The TTP is jointly administered by the BIA and the FHWA. These investments have contributed greatly to the improvement of unsafe roads and the replacement or rehabilitation of deficient bridges on or near reservations throughout Indian Country.

Today, the National Tribal Transportation Facility Inventory (NTTFI) consists of over 160,000 miles of public roads with multiple owners, including Indian tribes, the BIA, states, and counties, as well as other Federal agencies. Of this amount, approximately 12,300 miles are planned or proposed roads of varying surface types and uses. There remains a great and continuing need to improve the transportation systems throughout Indian Country. We believe Congress has viewed this as a joint responsibility including not only Federal agencies, but state and local governments with transportation investments in or near American Indian and Alaska Native communities, as well. Coordination among all of these stakeholders is required in order to maximize available resources to address transportation needs. Tribes are continuing to invest in transportation projects that are the responsibility of other public authorities. This creates jobs and contributes to the economy of local businesses that provide services and materials. Strengthening existing partnerships will continue to support the local economy and bring improved infrastructure to communities on or near Indian reservations and lands. In March 2014, we reported that, tribes have planned transportation projects estimated to lead to approximately \$270 million worth of investment in non-BIA and non-Tribal roads and bridges over the next 3 years. An investment in tribal transportation is truly an investment in the local economy and safer roads and bridges.

### **BIA Road Maintenance**

In partnership with the Department of Transportation, the BIA currently implements both the TTP program, funded within the Highway Account of the HTF, and the BIA Road Maintenance Program, funded by the Department of the Interior. The BIA Road Maintenance Program has traditionally been responsible for maintaining only roads owned by the BIA. Today, of the 148,000 miles of existing roads in the NTTFI, the BIA has responsibility for approximately 29,500 miles of roads designated as BIA system roads. The BIA receives approximately \$25 million in Tribal Priority Allocation (TPA) funding annually for the administration of the road maintenance program for those roads.

BIA supports self-determination and the empowerment of tribes by contracting out a significant portion of the program with tribes. Approximately 74 percent of tribes with BIA system roads within their reservation boundaries currently carry out the BIA Road Maintenance Program through P.L. 93-638 self-determination contracts or agreements in lieu of federal employees. Approximately 20,300 miles (70 percent) of the BIA system roads are not paved and are, thus, considered "inadequate" from the perspective of the level of service index used to assess roads and bridges in the BIA road system. The FY 2014 deferred maintenance for BIA roads was estimated at \$290 million.

### **FY 2016 Budget Request for Tribal Transportation**

The Administration's FY16 budget reflects the President's continued commitment to addressing the transportation needs of Indians and Native Americans. This budget recognizes that supporting safe and reliable transportation and public road access to and within Indian Country contributes to stronger tribal economies, communities and families. Highlights of the FY 2016 budget for the Tribal Transportation Program include:

- Program funding is increased from \$450M to \$507M. The increased amount is targeted toward new and/or increased set-asides.
- The Tribal High Priority Projects Program is integrated back into the core program as a 7 percent set-aside. MAP-21 had authorized this as a separate program funded from the General Fund.
- Increased the tribal planning set-aside from 2 percent to 3 percent to address additional data collection requirements.
- Increased the tribal bridge set-aside from 2 percent to 4 percent to address the growing backlog of tribal bridge needs.

The program structure and funding formula under MAP-21 are retained. The FY 2016 budget also includes \$150 million for rehabilitation, construction, or reconstruction of large, nationally-significant transportation infrastructure within or providing access to Federal or Tribal lands.

### **Reauthorization of MAP-21**

In March 2014, before this Committee over a year ago, we discussed the need for jobs, infrastructure and safety of roads in Indian communities, and we noted our support for the reauthorization of MAP-21. The Department is now working with Congress on the transportation reauthorization legislation, now known as the GROW AMERICA Act. As Congress moves forward with transportation reauthorization, the Department continues to note the most significant impact to the TTP under the current MAP-21 is the implementation of the new formula established under MAP-21. MAP-21's annual allocation for the TTP is equal to the amount for the last year of SAFETEA-LU. However, one significant difference is that the current MAP-21 formula makes more TTP funding available for distribution to tribal shares. The formula share of IRR program funds in FY 2011 and 2012 were, respectively, \$336.7 million and \$322.3 million. The formula share of TTP funds in FY 2013 and FY 2014 were, respectively, \$387.6 million and \$384.3 million. This has allowed more funding to be directed to tribal priorities. The new formula also allows for a consistent estimate of allocations in advance for future projects and timely allocation to tribes because a major portion of the data is known prior to beginning of the fiscal year.

Although more funding is allocated to tribes for their priorities, certain programs have decreased shares under MAP-21. The bridge program is decreased significantly from a separate program of \$14 million per year to a set-aside program from within the total amount of less than \$9 million per year. However, the bridge set-aside proposed in the FY 2016 budget would address this concern by providing approximately \$20 million to address critical bridge needs in Indian Country.

In addition, the requirement of the Secretaries of Transportation and Interior to perform safety inspections on all 930 tribally-owned bridges has not been adequately funded. The number of bridges which are deficient or functionally obsolete and are eligible for replacement or rehabilitation for BIA bridges alone in the 2013 National Bridge Inventory is approximately 178 of 930 (or 19.1 percent of the total). The estimated cost of replacing and rehabilitating these bridges is \$53.2 million. The estimated cost of inspecting the tribally-owned bridges along with the BIA is \$3.0 million every other year.

### **Update of 25 CFR 170**

The notice of proposed rulemaking (NPRM) for the update of Title 25 Code of Federal Regulations Part 170, Tribal Transportation Program, was published on December 19, 2014. In January and February of 2015, 6 consultation meetings were held with tribes on these revised regulations. The closing dates for comments for the NPRM, was March 20, 2015. Over 450 comments were received from interested tribes and the public. The BIA and FHWA are currently reviewing the comments that will lead to a Fall publication of the final rule.

This proposed rule would update the Tribal Transportation Program regulations to comply with the current surface transportation authorization, MAP-21 (as extended), reflect changes in the delivery options for the program that have occurred

since the regulation was published in 2004, remove certain sections that were provided for informational purposes only, and make technical corrections.

#### **Conclusion**

The Bureau of Indian Affairs and the Department are committed to working with this Committee and others in Congress to address the transportation needs in Indian Country through our support for the Tribal Transportation Program, the Road Maintenance Program, and other Title 23 USC funding provided for transportation in Indian Country.

Thank you for the opportunity to present testimony on an issue that is an important part of the employment, economic infrastructure and roads safety for tribes. I will be happy to answer any questions you may have.

The CHAIRMAN. Mike, thank you for your testimony. Thank you for being here today.

Next we have the Honorable J. Michael Chavarria.

#### **STATEMENT OF HON. J. MICHAEL CHAVARRIA, GOVERNOR, SANTA CLARA PUEBLO, NEW MEXICO**

Mr. CHAVARRIA. Good afternoon and thank you, Chairman Barrasso, Vice Chairman Tester, members of the Committee, for this opportunity to testify before you regarding Tribal Transportation: Pathways to Safer Roads in Indian Country.

My name is J. Michael Chavarria. I serve as Governor for Santa Clara Pueblo in New Mexico. I also serve as Chairman of the Eight Northern Indian Pueblos Council, and I am a member of the All Pueblo Council of Governors in New Mexico.

Santa Clara Pueblo has roughly 181 miles of road, of which 80 percent of that is BIA. It consists mostly of unpaved dirt roads, 14 percent State, 2 percent urban and 3 percent county. Santa Clara Pueblo experienced a loss of 50 miles of roads in the past couple of years, stemming from the 2011 Las Conchas fire and post-fire impacts from flooding, which was an enormous loss to the Pueblo's tribal transportation infrastructure.

Notably, the main road, State Road 30, is one of the two access roads to Los Alamos National Laboratory, our neighbor immediately to the south. This road, which has national security importance, passes through the heart of our reservation. With a traffic count of 14,000 vehicles a day volume on State Road 30 is a driving force behind Santa Clara's roads and safety plans. As our Pueblo grows, with a new housing development on the south side of the road, in addition to a new fire station, an increasing number of Santa Clara people must cross the road or attempt to merge into that road. During peak traffic flows, it is extremely difficult for vehicles to safely enter the traffic stream from the intersecting streets. Drivers often do not obey signage, such as speed limits, and pedestrians cannot even pass safely at the crosswalk. There are no sidewalks or traffic lights on State Road 30.

Our transportation plans include construction of a frontage road and protected crossings, but our attempts to engage the State of New Mexico to improve the safety of these roads have fallen on deaf ears. Our frustrations about working with the State are not unusual within Indian Country, as I have heard from many other tribes about their States paying less attention to the State roads serving Native American communities. Notably, one of the agreements granted by the BIA to States or other jurisdictions for roads over Indian lands requires that the facilities on them remain main-

tained and often contain language granting the BIA to revoke the right of way if maintenance is not adequate.

Congress could improve oversight and maintenance and safety of roads serving Indian communities by creating a process whereby tribes themselves could initiate a review to determine if action to induce proper maintenance is required. There are many other things that can be done at the Congressional level to support greater public safety on Indian Country roads, including authorizing tribes to directly receive DOT funds, rather than having those funds pass through the State. Support legislation that would create a DOT, a tribal self-governance program, like at the BIA and IHS levels. This simplifies grant initiating requirements and significantly streamline tribal efforts to obtain and administer tribal funds or transportation funds. Establish a 2 percent tribal setaside in MAP-21 for the Highway Safety Improvement Program. And for the TIGER program, to enable tribes to better compete in these comparative grant programs.

This change is cost-neutral, but would open up an important stream of funding for tribal safety. Section 1317 of MAP-21 contains a categorical exclusion from environmental review for any transportation project receiving less than \$5 million in Federal funds. The BIA has asserted that this provision only applies to the Department of Transportation, which we think is both an unfair reading of Section 1317 and a willful disregard of Congressional intent. It should apply to BIA as well.

Move the tribal bridge program back into the Highway Trust Fund, as it was under SAFETEA-LU, rather than a tribal transportation program. This would ensure better funding. Ensure that tribal governments are eligible to apply for all grant programs under the DOT, under the same criteria as other governments. Streamline the process for applying for emergency relief for federally-owned roads. Funding for roads repair when disaster occurs by allowing tribes to go directly to the Federal Highway Administration, such as the Stafford Act Amendments, to allow tribes to seek direct disaster funding from the President of the United States.

Again, I would like to thank you, on behalf of the Pueblo of Santa Clara, for allowing me this opportunity to testify before this Committee. I have also submitted a written testimony for the record. Again, Mr. Chairman, Mr. Vice Chairman and the rest of the Committee, [phrase in native tongue.]

[The prepared statement of Mr. Chavarria follows:]

PREPARED STATEMENT OF HON. J. MICHAEL CHAVARRIA, GOVERNOR, SANTA CLARA  
PUEBLO, NEW MEXICO

**Introduction:** Thank you, Chairman Barasso, Vice Chairman Tester, and members of the Committee, for this opportunity to testify before you regarding "Tribal Transportation: Pathways to Safer Roads in Indian Country".

My name is J. Michael Chavarria. I am the Governor of the Santa Clara Pueblo in New Mexico. I also serve as the Chairman for the Eight Northern Indian Pueblos Council and associated with the All Pueblo Council of Governors in New Mexico.

Santa Clara Pueblo's experience in the area of roads, road safety, and improvement of infrastructure in Indian Country is representative of many tribes around the Nation, and we hope that this testimony will prove informative for the Committee in its work in this area.

**Reauthorization of the Transportation Bill.** I testify today as the Congress is in the middle its efforts to reauthorize the transportation bill. As always, the reauthorization is a large scale task aimed at providing a comprehensive response to the Nation's transportation needs. At the outset, we would like to join the voices of other tribes and our colleagues in the states to say that we support a long-term reauthorization, and hope the members of the Committee will do the same. I bring my voice to this hearing, however, to press the Committee and other members of the Senate to remember that a comprehensive solution must include improvements to the Tribal Transportation Program (TTP) and other programs affecting Indian Country's transportation network.

**Funding and Non-Funding Needs.** It is undeniable that major improvements to roads, safety, and transit in Indian Country will only come with an increase in funding. During the last transportation authorization, tribal programs lost ground compared to funding for state and federal programs; at the very least, Congress must provide funding so Indian Country can keep pace with our counterparts. Funding increases are not only needed, but warranted. We urge you to provide leadership on this issue so our programs may progress. However, we come to you today to offer ideas on how tribal programs may be increased at little or no cost by improving efficiency, tribal control, and coordination with state and local governments.

**Safety of Indian Roads and State Coordination.** My primary concern as a tribal leader is the health and safety of our citizens and that of our neighbors. Traffic fatalities and serious injuries among Native Americans occur at rates two to three times the national average on Tribal Transportation systems. In some areas of Indian Country, these rates are even higher. Historic data show that fatal crash rates in Indian Country increased 53% during a period in which they declined for the overall population. Traffic accidents are now a leading cause of death among Native Americans.

A crucial part of road safety in our area focuses not only on our drivers, but on pedestrians and bikers as well. Our tribal lands are crisscrossed by several major routes such as U.S. Route 84 from Santa Fe and State Route 399. New Mexico Highway 30, the road that connects US-34 starting in Espanola to Los Alamos National Laboratory cuts directly through our reservation. This two-lane highway is very busy, with more than 14,000 trips per day. *This road serves as one of the major access roads to and from Los Alamos and is also an emergency relief route in case of evacuation or other disasters at Los Alamos.* For our Pueblo with a population of around 1,000, the road is a major safety concern, bisecting the Pueblo in a way that poses substantial risks to both automotive and the large amount of pedestrian traffic.

Volume on State Highway 30 is a driving force behind my Pueblo's roads and safety plans. As our Pueblo grows with a new housing development on the south side of our community along Highway 30, a new fire station on the road, an increasing number of *Santa Clara* people must cross the road or attempt to merge into it. Our transportation plans include construction of a frontage road and protected crossings, but our attempts to engage the State of New Mexico to improve the safety of their road in the interest of Indian and non-Indian users alike have fallen on deaf ears.

Our frustration about working with the state is not unusual within Indian Country, as I have heard from many tribes that experience a disparity of state effort and attention to the state's own roads serving Native American communities compared with others. Many of these problems are a result of the failure of the state to adequately maintain roads going to and through Indian Country. This, despite 23 U.S.C. 116, which requires the Secretary of Transportation to ensure that all roads are properly maintained, at the threat of the State or district losing funding.

This provision should be enforceable, though we are unaware that the Secretary has taken any action pursuant to this section. We have similar feelings about right-of-way agreements granted by the BIA to states or other jurisdictions for roads over Indian land. These rights-of-way require that the facilities on them be maintained, and often contain language granting the BIA the right to revoke the right-of-way if maintenance is not adequate. Congress could improve oversight of maintenance and safety of roads serving Indian communities by creating a process whereby tribes themselves could initiate a review under 23 U.S.C. 116 or a right-of-way agreement (or a review under a similar process for Bureau of Indian Affairs-owned roads) to determine if action to induce proper maintenance is required.

**Traffic Enforcement.** Regulation of all motorists using our roads and rights-of-way is of paramount importance in maintaining safety in our community. In order to enforce civil traffic jurisdiction over Indian and non-Indian motorists within the community, the Pueblo has adopted a policy of reserving civil jurisdiction over all roads and rights-of-way. Due to the heavy traffic volume over unsafe roads, the Pueblo views traffic violations as a daily threat to the health, safety and welfare of the tribal members and the surrounding community. Within the Pueblo, the burden of enforcing civil traffic laws falls upon the tribal police. The tribal police issued 2,294 civil traffic citations and 35 driving under the influence violations in 2014. Enforcing the traffic laws require trained staff and the tools of the law enforcement profession, including highly costly vehicles and gas. The tribal budget is insufficient to meet the needs of law enforcement. We are currently relocating the tribal police from cramped quarters to two modular buildings that were donated to the Pueblo of Santa Clara by the local public school district. The Department of Justice Community Oriented Policing Services (COPS) Tribal Law Enforcement grants

have gone far in meeting the needs of our tribal police, but the COPS grants have not gone far enough. Because the COPS grants are competitive and underfunded, we have been unable to garner funds for staff and tools of the trade. Increased COPS funding is needed to maintain safe roads. The Pueblo recommends an increase in funding for the COPS grants.

Justice, and due process, is carried out through the tribal traffic court. After a civil traffic citation is issued, the motorist must pay the penalty or the tribal traffic court must adjudicate the case. While penalties may offset part of the costs for the tribal traffic court and law enforcement, all costs of staff and services are not met. In the past, Congress has identified the need for fully operational tribal courts. Public Law 103-211, § 242(a)(2)(A), codified in 25 USC § 3621, authorized \$30,000,000 in base support funding for tribal justice systems each year for fiscal years 2011 through 2015. Congress intended to build and enhance tribal justice systems with this funding. The Pueblo supports a similar authorization of tribal justice system funding for the future.

**Direct Funding of Tribes.** Another critical way Congress can assist tribes working with the states is to simplify the transfer of funding tribes receive from the states for successful applications to state safety programs. Tribes have been seeking the ability for years to receive federal-aid funds passed through the states under 23 U.S.C. §§ 402, 405, 408, and 410 directly from DOT. This would improve efficiency by cutting down on administrative costs associated with funding transfers, and would recognize the right of tribal self-determination. The BIA could accomplish this administratively, but actually *removed* language from the recent proposed 25 CFR Part 170 rules that would make this change. We urge Congress to provide for this process via statute.

**Tribal Set Asides.** Given the dire statistics on road safety and traffic accidents in Indian Country, we support the calls in the Tribal Transportation Unity Act (TTUA)—an effort by diverse tribes and tribal stakeholders to come to a national consensus about tribal transportation priorities—seeking set asides for tribes from already-existing funding. The proposal is to provide for a 2% tribal set aside from the existing apportionment made under MAP-21 for the Highway Safety Improvement Program to enable tribes to compete in this competitive grant program. It would also provide 3.5% of National Highway Traffic Safety Administration's existing highway safety program funds to the Secretary of Interior, rather than the existing 2%. These changes are cost-neutral, but open up an important stream of funding for tribal safety.

Sanja Clara does not have a railroad passing through our lands, but many other tribes do. We have been advised that railroad crossings in Indian Country pose a significant hazard. For example, the Pueblo of Acoma has its community housing and public safety facilities on the south-side of the BNSF tracks, while the hospital, the interstate (with 200,000 cars passing a day) and two major transcontinental pipelines lie on the north-side. With over 85 trains a day, each about two miles long, Acoma has sought Transportation Investment Generating Economic Recovery (TIGER) funding for a bridge to prevent delays for public safety services and to reduce the risk of accidents. There is no set-aside in TIGER for tribes, but there should be. Tribes seem to be getting a very small share of these funds despite the substantial need.

**Tribal Competitive Grants.** We also want to stress the importance of the Tribal Transportation Program Safety Fund's competitive grants. We are in the second year of this program which provides about \$8.6 million for tribal transportation safety projects. My Pueblo received \$12,500 in FY 2013 to help with completion of a safety plan. We have just released the "95% Draft" for public review, and hope to have the report finalized soon. This program is critical for tribes seeking to address their safety concerns in a structured and comprehensive way. However, we must alert this Committee to a failure on the part of the DOT in funding for this year's program. While funding was released in mid-November 2013 for FY 2013, funding for FY 2014's grants was only announced and released last month, six months into the fiscal year. There was no reason given for this significant delay, and a delay of this magnitude not only cripples the actual work done under the grants,



but increases the cost of that work as well. We ask this Committee to seek an answer from DOT as to the reason of this delay so that it is not repeated.

#### *Strengthening Tribal Self-Governance*

**DOT Should Support Self-Governance Compacting.** Handling transportation systems is one of the core functions of any government, and tribes are no exception. This year is the 40th Anniversary of passage of the Indian Self-Determination and Education Assistance Act (ISDEAA). This law has proven to be the single most effective Federal statute for promoting Tribal self-determination and success. In Indian Country, we think Congress has made its intent clear to expand ISDEAA compacts to the Department of Transportation when it included language for what is now 23 U.S.C. § 202(b)(7). The Department of Transportation sees this differently, however, and has only authorized "program agreements," that, to tribes, do not properly incorporate the full slate of ISDEAA requirements and protections. Tribes are simply tired of waiting for DOT to come around.

**Proposed Congressional Legislation.** Accordingly, we voice our full support for the Tribal Transportation Self-Governance Act of 2015, sponsored by Reps. DeFazio (D-OR) and Young (R-AK) in the House as H.R. 1068. The language of the Act is identical to that proposed in the TTUA, and to that already reported to the full House in 2012 in H.R. 7. Passage of this bill would create in DOT a Tribal Self-Governance Program approximating that in HHS now active as Title V of ISDEAA. This would mean that tribes would be able to obtain all of their transportation funds (including not only TTP funds, but also transit, Federal-aid and other DOT funds) under a DOT self-governance agreement. By authorizing Tribes to elect to use these ISDEAA funding agreements for all transportation funds (and requiring DOT to respect that election), and thereby requiring tribes to meet only a single set of grant and administrative requirements, these amendments should significantly streamline tribal efforts to obtain and administer such funds. This section also preserves the option currently available to tribes to enter into FHWA TTP Program Agreements and referenced Funding Agreements with the Secretary of Transportation, and tribes electing to do so will continue to be able to use those existing agreements.

We ask that members of this Committee introduce and pass a companion bill to H.R. 1068, or that you work to include this important language in the current transportation reauthorization.

#### *Programmatic and Administrative Improvements*

We know that the Committee is seeking guidance from Indian Country on how transportation in Indian Country can be improved by increasing efficiency and decreasing waste. A significant way to accomplish this is by reducing the administrative burden on tribes and the agencies, and by ensuring the agencies are restrained from expanding what is required of tribes to run our own programs.

**Environmental Categorical Exclusions.** This can start by ensuring that the Bureau of Indian Affairs and the Federal Highway Administration are hewing to the language of Congress's statutes. As one example, tribes have been frustrated by the BIA's unwillingness to follow language in Section 1317 of MAP-21 containing a categorical exclusion from environmental review for any transportation project receiving less than \$5 million in federal funds. The Bureau has taken a position that the provision only applies to the Department of Transportation, which we think is both an unfair reading of Section 1317 and a willful disregard of congressional intent. The vast majority of the BIA's projects (or those handled by tribes through a BIA agreement) receive less than \$5 million in funding, and this provision would speed the planning and construction of projects in Indian Country (and therefore reduce their costs).

**Other No-Cost Proposals.** The Pueblo also supports the efforts in the TTUA that contain many no-cost provisions that could drastically improve the efficiency of the TTP. We know that you are well aware of the TTUA, but wish to highlight some of the provisions we think are particularly important:

- **Transfer Tribal Bridge Program.** Moving the TTP Bridge Program back into the Highway Trust Fund as it was under SAFETEA-LU, rather than a takedown from the TTP Program. This would ensure that both the Bridge Program and the regular TTP program can fully use resources already allocated to them.
- **Full Tribal Grant Eligibility.** Ensuring that tribal governments are eligible to apply for all grant programs in the DOT under the same criteria as other governments. Currently, tribes can apply for most, but not all, of DOT's discretionary and competitive grants. For example, tribes are not eligible for programs like employee training for hazardous materials incidents or transportation technology improvement grants. Tribes only wish to be able to apply for such grants under the same criteria as state and local governments can.
- **Restoring Tribal Eligibility.** Restoring tribes' ability to apply for programs under the new "Transportation Alternatives Program." When Congress moved funding for programs like Scenic Byways, Safe Routes to Schools, and the Transportation Enhancements and Recreational Trails program into a new consolidated Transportation Alternatives funds, it inadvertently removed the ability of tribes to apply to these programs directly—now tribes must apply to states for these funds. Since they had been successful throughout Indian Country, we request that tribes' ability to apply directly be restored, with a 3% set-aside of existing funding for Indian Country projects.
- **Authorizing Direct Tribal Requests for Emergency Relief.** Streamlining the process of applying for Emergency Relief for Federally Owned Roads (ERFO) funding when a disaster or road failure occurs. Instead of requiring tribes to first apply to the BIA for ERFO funding, who then forwards the request to FHWA (though not always in a timely manner), this change would enable tribes to apply directly to FHWA. It would also require FHWA to meet with tribes to hammer out a rule setting the threshold for the program. Currently that level is a floor of \$700,000, which has the effect of excluding most tribal emergency projects, since they do not cost that much.

If I may be of any assistance to the Committee or the Congress in passing a new transportation authorization bill, please feel free to contact me at any time. Thank you for the opportunity to present on behalf of my Pueblo.

Senator TESTER. [Presiding] Thank you, Governor.

Next we have from the Fort Peck Assiniboine and Sioux Tribe, Rick Kirn. Rick?

**STATEMENT OF HON. RICK KIRN, TRIBAL EXECUTIVE BOARD MEMBER, FORT PECK ASSINIBOINE AND SIOUX TRIBES**

Mr. KIRN. Thank you, Vice Chairman Tester. I would like to thank the Committee members who are not here right now. Thank you for inviting the Assiniboine and Sioux Tribes to present testimony concerning Tribal Transportation: Pathways to Safer Roads in Indian Country.

My name is Rick Kirn, and I serve as a member of the Fort Peck Tribal Executive Board.

Today's hearing sheds light on the conditions of roads in Indian Country. Transportation infrastructure in Indian Country is unsafe, especially on large, rural reservations like the Fort Peck Reservation. We have hundreds of miles of roads, few first responders and limited trauma centers in the event of a serious motor vehicle crash. These factors contribute to the fact that motor vehicle crashes are a leading cause of injury and death among Native Americans.

If I had to identify the biggest problem facing the Fort Peck Tribe regarding road safety, it would be lack of resources, funding for needed road safety improvements and funding for education.

Education is critical if we are to raise the next generation of drivers to always buckle up, to properly secure children in child safety seats and not drink and drive. We are doing our share by establishing and implementing a safety management plan working with the Montana Department of Transportation to implement a Safe On All Roads, SOAR, program, and make road improvements to save lives.

We live in a 2.1 million acre reservation in northeastern Montana, just north and west of the Bakken and Three Forks formations. We saw increased truck traffic across Highway 2 and our BIA-owned and tribally-owned roads. These heavy trucks damaged the road beds, and they are in need of repair and construction. We lack the resources to undertake routine road maintenance on our roads. Poor maintenance shortens the useful life of all roads on our reservation, regardless of which jurisdiction owns them.

Poor roads and behavioral issues contribute to the deadly statistics that this Committee and every member of Congress should be alarmed by. According to the Centers for Disease Control, two Native Americans are killed every day in motor vehicle crashes. Native American infants have the highest mortality rate. The States with the highest fatality figures are Wyoming, Montana, the Dakotas and Arizona.

This Committee understands the importance of infrastructure in Indian Country. That is why this Committee has championed the reauthorization of NAHASDA and promoted irrigation projects and the completion of rural water systems. This Committee understands the importance of infrastructure as the foundation for economic development and healthier communities. Transportation infrastructure is also a prerequisite for investment, and it is at its heart a job-creating catalyst for our community, which suffers from high unemployment and poverty.

That is why the Fort Peck Tribes endorse the Tribal Transportation Unity Act Amendments to MAP-21 and ask this Committee to champion these tribal amendments in the next long-term Highway Bill. When Congress finds a bipartisan, bicameral solution to shore up the Highway Trust Fund, we ask that it also address tribal transportation needs in the next Highway Bill. Congress can improve road safety in Indian Country in the next six-year reauthorization bill by establishing parity between Indian tribes and the States.

Our infrastructure is in poor and fair shape. Congress can improve road safety in Indian Country through the following measures, some of which are no-cost amendments to current law. First, make Indian tribes directly eligible for every USDOT discretionary and competitive grant. Second, establish a 2 percent setaside for tribes in the Highway Safety Improvement Program. Third, increase the national highway traffic safety program setaside from 2 percent to 3.5 percent.

Finally, create a 3 percent setaside for tribes in the Transportation Alternative Program. This program has benefited the Fort Peck Tribes by funding pedestrian and bicycle paths that separate pedestrians from roads, projects it could not otherwise afford. The Transportation Alternatives Program saves lives in Indian Country and promotes walking and biking for healthier communities.

Thank you for the opportunity to present this testimony on behalf of the Fort Peck Tribes.

[The prepared statement of Mr. Kirn follows:]

PREPARED STATEMENT OF HON. RICK KIRN, TRIBAL EXECUTIVE BOARD MEMBER,  
FORT PECK ASSINIBOINE AND SIOUX TRIBES

### **I. Indian Country Roads Are Not Safe Roads**

Chairman Barrasso, Vice Chairman Tester and members of the Committee, thank you for affording the Assiniboiné and Sioux Tribes of the Fort Peck Reservation the opportunity to present testimony concerning "Tribal Transportation: Pathways to Safer Roads in Indian Country." My name is Rick Kirn and I serve as a member of the Fort Peck Tribal Executive Board. Chairman A.T. Stafne and my fellow Tribal Executive Board members send their warm regards.

Roads in Indian country are inherently unsafe. According to the Centers for Disease Control and Prevention (CDC), motor vehicle crashes are the leading cause of unintentional injury and death for American Indians/Alaska Natives ages 1–44. Among infants less than one year of age, American Indians/Alaska Natives have eight times the rate of motor-vehicle traffic deaths than that of non-hispanic whites. Among our teenage youth, motor vehicle crashes are the leading cause of death. We must do better.

According to the National Highway Traffic Safety Administration (NHTSA), in 2012, there were 33,000 roadway fatalities in the United States. Rural areas accounted for 54 percent of the fatalities although only 19 percent of the U.S. population lived in rural areas. Indian country is fairing even worse.

According to the CDC, two Native Americans are killed every day in motor vehicle crashes. From 2004–2010, the five states with the highest motor vehicle-related death rate among Native Americans were Wyoming, South Dakota, Montana, North Dakota and Arizona. The death rate in these states ranged from three to five times above the national average.

According to MDT, Native Americans make up roughly 6 percent of Montana's one million citizens, yet in 2009 Native Americans accounted for 15.4 percent of the State's fatalities. From 2000 to 2009, Native Americans comprised from 11.8 to 20.1 percent of the State's motor vehicle fatalities. MDT further found that nearly two-thirds of these fatalities were alcohol-related. From 2005–2010, safety belt use for Indian occupant fatalities was less than 10 percent. Additional resources for safety improvements and education can reduce these statistics.

We have roughly 1,500 miles of roads on the Fort Peck Reservation, of which 375 miles are BIA system and Tribally-owned roads. Of our 211 miles of BIA-owned roads, over half are gravel and dirt routes. Thus, the majority of our transportation infrastructure is outdated and in need of upgrade (paving) while the rest of the infrastructure is owned and maintained by the State and county governments which often do not maintain and reconstruct their roads on the Reservation with the same diligence as they do elsewhere in the State. When overstressed and under-maintained, our infrastructure gives way, creating safety hazards for our members, residents and visitors.

The Fort Peck Reservation lies within the western part of the Williston Basin, which includes many oil producing formations, including the Bakken and Three Forks. Fracking has brought about unprecedented oil development in the Bakken and Three Forks immediately adjacent to our Reservation in western North Dakota and eastern Montana. Rail, truck and motor vehicle traffic increased dramatically across the Reservation as oil, frac sand and pipe, together with people move in and out of the Bakken.

While oil prices have slumped and oil exploration has slowed somewhat, as the closest neighbor to this development, our substandard infrastructure—particularly our roads—have come under significant stress, without any accompanying income from this development or increased appropriations from Congress to maintain roads in a good state of repair.

Well designed and well maintained roads should be the norm, but this is not so in Indian country. Throughout Indian country and on our reservation, transportation barriers continue to exist. These barriers separate native communities from the rest of society, from jobs, health facilities, retail outlets, colleges and community centers. When we lack all-season routes, as we do on our reservation, law enforcement and other first responders struggle to reach people in need. Children cannot get to school and parents cannot get to work. This is especially true during our harsh winters when ice and snow accumulate on the roads making them unsafe.

Communities are shut off from one another. This is a safety issue which persists each year, largely due to lack of funds.

In short, road safety is a massive problem at Fort Peck and throughout Indian country. We cannot tackle this problem without additional federal resources. The United States has a unique trust responsibility to protect Indian tribes and their members. These persistent and grim statistics reveal that the United States has not lived up to its responsibility to the Indian nations and our members when it comes to transportation infrastructure and roadway safety.

## **II. Indian Tribes Can Make a Positive Difference to Improve Road Safety When Provided the Resources**

We are committed to reducing the number of deaths and serious injuries and improving the overall safety of the Reservation's transportation system. The Fort Peck Tribes have had a Safety Management Plan in place since 2008. We worked with the Montana Department of Transportation (MDT) to develop a Safe On All Roads (SOAR) program, provided Tribal law enforcement officers with a Cisco electronic crash records system to enter all crash reports in a standardized way for better reporting of crashes, established a DUI and Injury Prevention Committee that meets on a monthly basis, entered into a cross-deputization agreement with the State of Montana, and initiated safety checkpoints staffed by Tribal Police, City Police and County Sheriffs Offices. We have enacted ordinances to make not wearing a seat belt a primary offense and to ban domestic animals on highway rights of way.

Through MDT's Comprehensive Highway Safety Program (CHSP), an annual Tribal Transportation Safety Summit was established in Montana to provide tribal officials an opportunity to share success stories as well as identify safety issues and hurdles. Engineering/planning and education were identified by tribes as the highest area of need. This is consistent with MDT's finding that the issues of unbelted drivers and impaired driving among Native Americans remain a problem. According to MDT, between 2007 and 2011, in approximately 76 percent (120 of 157) of vehicle-related crashes, the victim was unbelted. On Fort Peck, we also identified overweight and oversized trucks as an emerging safety issue tied to the Bakken and Three Forks development. With more law enforcement funding, we could patrol our roads more consistently and keep them safer for all users.

We have used our "Tribal shares" of Tribal Transportation funds to reconstruct existing routes, complete overlay-chip seal projects, milled, leveled and overlaid community streets, and undertake the phased construction of the 30 mile Wolf Point-Wiota project to improve road conditions and safety on the Reservation. Well lit signage, guard rails, rumble strips, wider shoulders and striping are cost-effective measures to improve road safety.

We are also fortunate to have received 2 percent Tribal Transportation Program Safety grants over the last few years to make needed safety improvements on our reservation that we would not otherwise be able to undertake. In 2013, we used safety grant funding to restripe 26 miles of BIA routes, made road improvements from Box Elder to Blair, issued Public Service Announcements (PSAs) and updated our Tribal Highway Safety Plan. This year, we will use TTP Safety funds to pave the Poplar Airport Access Road for emergency vehicles, purchase a radar speed display trailer, purchase intoximeters for the Tribal Law and Justice Program and undertake an education promotion "Arrive Alive Tour."

As a competitive grant program, however, the \$8.5 million available in FY 2014 for Tribal Safety Grants is simply inadequate and covers only a tiny fraction of the transportation safety needs of the Nation's 566 federally-recognized Indian tribes. Fort Peck alone could utilize the entire safety grant program and still need more funding.

While we are making road safety a high priority, we simply lack the resources to address the problem comprehensively. The situations I mentioned earlier demonstrate that more needs to be done.

## **III. Tribes Require Parity With States in the Next Long-Term highway Reauthorization Bill and We Call on the Senate Indian Affairs Committee to Advocate for Tribes**

Tribes require parity with State Departments of Transportation if we are to address serious safety issues on our reservations. The reduction in federal appropriations to the Tribal Transportation Program and the loss of discretionary grant programs, such as the Public Lands Highway Discretionary Grant Program under MAP-21, hinder the ability of Indian tribes to address ongoing transportation safety concerns.

The primary sources of funding to undertake safety improvements as well as maintain and repair our reservation routes to improve safety are the funds we re-

ceive from the Tribal Transportation Program, under the Federal Lands Highways Program, and the BIA Road Maintenance Program funds. These programs have not received required funding increases nor kept pace with inflation and thereby have undermined our ability to properly maintain our existing transportation inventory.

To rectify the economic and physical barriers that hinder so many aspects of reservation life, we urge the Indian Affairs Committee to introduce an Indian highway bill to provide financial predictability and certainty for Indian transportation and safety programs need. We ask the Committee to advocate for tribal parity with the States in the area of transportation, transit, road maintenance and highway safety. Tribal transportation infrastructure needs must be addressed in the next long-term, bipartisan and bicameral highway reauthorization bill.

To empower tribes and promote tribal self-determination in the area of transportation infrastructure, transit and highway safety, Congress should adopt the recommendations of the Tribal Transportation Unity Caucus (TTUC), a broad coalition of Indian tribes from across the country. The TTUC proposed a legislative package of amendments to MAP-21 that provide equitable funding increases and program improvements to address the safety and engineering deficiencies that are present throughout Indian country.

We strongly endorse the Tribal Transportation Unity Act (TTUA) amendments as have scores of other tribes as well as tribal organizations such as the National Congress of American Indians (NCAI), the Intertribal Transportation Association (ITA) and the Affiliated Tribes of the Northwest Region (ATNI). We ask that the Tribal Transportation Provisions Proposed for Inclusion in the Highway Reauthorization legislation by the TTUC be made part of this hearings record.

Transportation safety is one of many elements which Congress should address in a comprehensive, long-term highway reauthorization of MAP-21. This Committee has long understood that infrastructure, including roads, water and wastewater systems, utilities, telecommunications, law enforcement, schools and health facilities are the building blocks for community stability and economic development.

We ask this Committee to provide Indian tribes with greater access to existing highway safety programs to reduce needless deaths among the Nation's First Americans. As noted in the Tribal Transportation Unity Act amendments, Congress can do so by:

1. establishing a 2 percent set-aside for tribes in the Highway Safety Improvement Program (HSIP);
2. increasing NHTSA's Tribal Safety Program set-aside to 3.5 percent (from 2 percent);
3. create a 3 percent set-aside for tribes in the Transportation Alternatives (TA) Program; and
4. make tribes direct eligible recipients for all USDOT discretionary grants.

Many motor vehicle crashes and motor vehicle injuries to Native Americans on reservations simply go unreported. Tribes need more funding to standardize data gathering and reporting of motor vehicle crashes which can be shared with State and Federal agencies. Only through better crash data can tribes receive additional federal and State highway safety funds.

With recurring and increased Tribal Transportation Program and safety funding, we can:

- increase child safety seat use among Native American youth,
- increase seat belt use among adults and teen drivers,
- address alcohol-impaired driving through greater traffic enforcement, sobriety checkpoints,
- implement multi-faceted community-based approaches to alcohol misuse and DUI prevention, and
- undertake engineered road improvements that make our transportation systems safer.

#### IV. Conclusion

We appreciate the Committee's concern regarding road safety in Indian country and we look forward to working with you to see that proper investments are made in transportation infrastructure to make our communities safer. It will take time and resources to remedy the poor state of roads in Indian country and improve highway safety for Native Americans, but Indian tribes are in the best position to partner with local, State and Federal agencies to reverse the appalling situation we now endure and make reservation transportation systems safer so that our members can lead healthier lives and our communities can prosper. Greater access to existing

funding sources and increased appropriations overall will help tribes build better relationships with State DOTs, metropolitan and rural planning organizations, local governments and federal agencies.

Transportation infrastructure costs money to build and, equally important, to maintain. It is a price Congress must be willing to pay. We are gratified to see legislation from this Committee that recognizes the importance of investing in tribal infrastructure, whether it concerns irrigation systems, housing, or rural water projects. We ask that you do the same for transportation infrastructure.

I thank the Committee for the opportunity to present this testimony.

The CHAIRMAN. [Presiding.] Thank you very much, Mr. Kirn. I appreciate your being here.

And now Mr. Delbert McOmie, with whom I worked closely when I was on the Wyoming State Senate on the transportation committee. He is the Chief Engineer of the Wyoming Department of Transportation. At your convenience, please share your thoughts.

**STATEMENT OF DELBERT McOMIE, CHIEF ENGINEER,  
WYOMING DEPARTMENT OF TRANSPORTATION**

Mr. McOMIE. Thank you, Chairman Barrasso, Vice Chairman Tester and members of the Committee. I am Del McOmie, with the Wyoming Department of Transportation. I thank you for the opportunity to offer WYDOT's perspective on the vital transportation matter of transportation safety on the Wind River Reservation.

At the outset, let me emphasize that States and political subdivisions such as counties can and do have jurisdiction over some roads within the reservation boundaries. So improving the transportation system on and near the tribal reservation depends on effective planning and participation amongst the State, tribe and political subdivisions, as well as citizens and stakeholders.

Also, to improve the State and tribal transportation safety, one should not focus solely on projects funded from the safety category. Safety is part of virtually everything that we do at WYDOT. For example, a road resurfacing and widening project provides safety benefits by eliminating potholes and improving shoulders. It could also include installing guardrail and rumble strips. But the project might be funded from the Surface Transportation Program under Title 23. A project that does not include any elements other than adding a safety feature would likely be funded out of the Highway Safety Improvement Program and would be referred to as a safety project.

My written statement describes a few projects and actions WYDOT has undertaken, working closely with the tribal stakeholders, to improve transportation and transportation safety. For example, I will highlight just a few. First, we are pleased to advise that under MAP-21, the proportion of WYDOT funding for construction that is invested on routes serving the Wind River Reservation exceeds the ratio of enrolled tribal members to Wyoming's overall population.

Second, Mr. Chairman, as you know, the most notable tribal transportation achievement in Wyoming in recent years has been the completion of the 17 Mile Road project on the Wind River Reservation. That \$45 million project was undertaken with tribal funds, State funds, Federal appropriations to WYDOT, Fremont County funds and a TIGER discretionary grant from the USDOT to the Northern Arapaho and Eastern Shoshone tribes. It has been

a 20-year effort. That road has been transformed from a narrow, sharp-cornered road with irrigation structures near the roadway into a modern, two-lane highway with wide shoulders.

Safety was critically important in deciding what to do with the project. In addition to adding eight-foot shoulders and eliminating hairpin corners, roadway lighting was added at major intersections and irrigation systems were moved from open ditches to buried pipes. Rumble strips are currently being added to further improve safety.

Third, WYDOT has used funds under NHTSA programs for transportation safety education in the tribal community. Safety summits, the advertising, using posters, billboards and radio spots have stressed wearing seatbelts, using child restraints and not driving while impaired. Over the last decade, we have seen reduced fatal crashes, fatalities and injuries. For example, in 2005 there were 8 driver fatalities in Fremont County involving a positive alcohol or drug test. In 2014, there were none.

The combination of efforts of road and behavioral investments are paying off. On the eastern section of the 17 Mile Road, in the three-year period preceding reconstruction and behavioral messaging, there were 65 total crashes with 63 injuries and 4 fatalities. In the three years following the reconstruction and the commencement of the behavioral program, total crashes fell to 18 with 10 injuries and 1 fatality. This is a drop of 70 percent or more for crashes, injuries and for fatalities from the pre-construction, to the pre-messaging period.

Fourth, transit investment has also served to improve safety as well as address jobs, medical treatment and other vital functions. These improvements have taken pedestrians off the roadway and helped to reduce vehicle pedestrian accidents.

Before closing, let me offer a few thoughts on a framework that can help State DOTs and tribal nations continue to achieve positive results. Enacting a multi-year surface transportation bill will help. Planning for projects on or near the reservation takes time and can best be undertaken in the context of a multi-year legislation.

Also, Congress and Federal agencies should provide flexibility to the States and to the tribes, and also look for opportunities to streamline and simplify programs and project delivery. If we can reduce the expense of the program administration, more funds can be applied to the actual project and programs.

In conclusion, States are available to work with the tribal governments to deliver transportation improvements, including safety. That concludes my statement, Mr. Chairman, and I look forward to any questions the Committee may have.

[The prepared statement of Mr. McOmie follows:]

PREPARED STATEMENT OF DELBERT MCOMIE, CHIEF ENGINEER, WYOMING  
DEPARTMENT OF TRANSPORTATION

Chairman Barrasso, Ranking Member Tester, and Members of the Committee:

I am Del McOmie, Chief Engineer of the Wyoming Department of Transportation (WYDOT). Thank you for the opportunity to appear before the Committee and offer WYDOT's perspective on the vital matter of tribal transportation safety.

In my statement today, I will share with the Committee information about how the efforts of our state, under the federal surface transportation programs, can be coordinated effectively with the transportation plans and programs of the tribes to



bring about improved transportation and transportation safety for tribal members, both on and near reservations.

At the outset, let me emphasize that states and political subdivisions, such as counties, can and do have jurisdiction over and responsibility for some roads within the boundaries of a reservation. So, improving the transportation system in and near a tribal reservation depends on effective communication, planning, and participation among the state, the tribe, and political subdivisions, as well as citizens and stakeholders.

This common sense imperative for communication among the interested parties is reinforced by various provisions of the federal surface transportation program. The basic federal transportation planning statutes for states, 23 U.S.C. 135 and 49 U.S.C. 5304, include a number of provisions requiring a state to consult with tribes in undertaking transportation planning, especially with respect to plans for areas of the state under jurisdiction of a tribal government. Further, pursuant to 23 U.S.C. 148, the state's Strategic Highway Safety Plan must be developed in consultation with tribal stakeholders.

Before turning to some examples of how we at WYDOT have been working with the Northern Arapahoe and Eastern Shoshone tribes to improve transportation and transportation safety on the Wind River Reservation, I think it is important to point out that safety is an integral part of virtually everything we do at WYDOT. Every road project makes a contribution to safety, even if for programmatic purposes, it is not classified as a "safety project." For example, a road resurfacing and widening project provides safety benefits by eliminating potholes, and it could also include installation of guard rails and rumble strips, but the project might be funded from the "surface transportation program" category in Title 23. A project that does not include any elements other than adding guard rails likely would be funded out of the "highway safety improvement program" category and would be generally referred to as a "safety project." In short, when thinking about ways to improve transportation safety, one should not focus solely on projects funded from a "safety" category.

#### **Recent WYDOT Investments Have Complemented Tribal Efforts and Improved Transportation Safety in Wyoming's Tribal Areas**

Now, let me briefly describe a few of the efforts WYDOT has made, working closely with tribal stakeholders, to improve transportation and transportation safety. The Department is working diligently to improve transportation on the Wind River Reservation. Under the Moving Ahead for Progress in the 21st Century Act, MAP-21, the proportion of WYDOT funding for construction that is invested on routes serving the Reservation exceeds the ratio of enrolled tribal members to Wyoming's overall population.

*17 Mile Road.* As you know, Mr. Chairman, the most notable tribal transportation achievement in Wyoming in recent years has been the completion of the 17 Mile Road project. That \$45 million project was undertaken with tribal funds, state funds, federal apportionments to WYDOT, Fremont County funds, and a TIGER discretionary grant from USDOT to the Northern Arapahoe and Eastern Shoshone tribes. It was a 20-year effort to design and complete this project. But that road, which is on and serves the Wind River Reservation, has been transformed from a narrow, sharp-angle road with irrigation structures near the roadway into a modern two-lane highway with ample shoulders. The reconstruction of 17 Mile Road has been a long-term cooperative effort with financial and personnel resources from the tribes, Fremont County, WYDOT, and the Central Federal Lands Division of the Federal Highway Administration. The project is viewed across the country as a model for government and community partnerships.

Safety was a critically important factor in the detailed planning for and delivery of the 17 Mile Road project. In addition to adding 8-foot shoulders and eliminating hairpin corners, roadway lighting was added at major intersections and irrigation systems were moved from open ditches to buried pipes. Rumble strips are currently being added to improve safety further.

WYDOT has continued to partner with the Wind River tribes on maintenance as well. The Department has provided transportation training funds for classes for the tribes to help them better maintain their roads. District personnel have also trained tribal members to perform chip sealing, which the tribes will now also undertake. The tribes purchased a Department striper, which WYDOT district personnel have taught tribal workers to use to maintain striping. The tribes have also bought used dump trucks and snowplowing equipment from the Department at nominal cost.

### **Additional Highway Investments**

Other WYDOT projects are planned or underway to improve roads serving the Reservation. In 2014, a project on Wyoming Highway 132 north of Ethete overlaid some 8 miles of the highway. Work on 3.3 miles of Wyoming Highway 789 south of Riverton is underway to widen the road. Another project on Wyoming Highway 132 south of Ethete is currently being designed. This project will straighten hairpin turns and widen shoulders. As part of the work, a separated bicycle and pedestrian path will also be built.

Additional initiatives to improve transportation on the Reservation and make it safer are also underway. A highway safety study of 13 state routes on the Wind River Reservation, for instance, is currently being done. This study, involving both WYDOT and University of Wyoming Civil Engineering Department personnel, will take an integrated approach involving in-depth review of crash data, speed limit studies, and capacity analysis. Benefit-cost analysis will then be applied to the findings, and recommendations for programming improvements will be made. These will then be programmed as funding allows. A High Risk Rural Roads project to install signs on the Reservation is also set for this year.

*Transit.* Transit investments have also served to improve safety as well as access to jobs, medical treatment, and other vital functions. WYDOT has invested rural transit operating and other funds to improve transit within the Reservation and to connect the Reservation and nearby cities and towns. Medical trips for kidney dialysis are the current focus, with some route service occurring. These activities will expand depending upon funding and user needs.

*Highway Safety Behavioral Program Investments.* WYDOT has used federal funds under NHTSA programs for education in Fremont County, including the tribal community, as well as in other rural counties. Safety summits and advertising using posters, billboards, and radio spots have been used to stress such important safety practices as wearing seat belts, using child restraints, and not driving while impaired. Tribal laws have also been changed. The Reservation has a new DUI law, a new mandatory seat belt law, and enforcement efforts have been enhanced. Over the last decade or so, we have seen reductions in fatal crashes, fatalities, and incapacitating injuries. In fact, there has been a dramatic reduction in all injuries. In 2005 there were 8 driver fatalities in Fremont County involving a positive alcohol or drug test. In 2014 there were zero fatalities, and there were only 4 total in the 4 years from 2011 to 2014. Fatalities overall have fallen from 24 in 2006 to 4 in 2013. Fatal crashes in which seatbelts were not used fell from 17 in 2008 to 3 in 2013.

We have consulted with tribal officials in structuring the delivery of programs supported with NHTSA funds from the Highway Trust Fund. While we are always working to improve safety further, we are encouraged to see real progress.

The combined efforts of road improvements and behavioral investments are paying off. On the eastern section of 17 Mile Road, in the three-year period preceding reconstruction and behavioral messaging, there were 65 total crashes with 63 injuries and 4 fatalities. After reconstruction and commencement of the behavioral program, for the three years from 2009 to 2012, total crashes fell to 18 with 10 injuries and 1 fatality. These figures represent a drop of 70 percent or more for crashes, injuries, and fatalities from the pre-construction, pre-message period.

### **Further Improvement**

Looking ahead, we at WYDOT are eager to achieve further improvement in transportation and transportation safety, including by working with our tribal colleagues.

I am not here as an expert on the tribal transportation program itself, but, before closing, I will offer a few thoughts on a framework that can continue helping state DOTs and tribal nations achieve positive results.

Enacting a multi-year surface transportation bill will help in this area as well as in other aspects of surface transportation. Planning for projects on and near a reservation takes time. We think WYDOT and our tribal and local government colleagues in Wyoming do it well and efficiently, but planning for investments takes years to reach fruition and can best be undertaken in the context of multi-year legislation.

Also, I would encourage Congress and the federal agencies to provide increased flexibility for states and tribes and to also look for opportunities to streamline and simplify programs and project delivery. If we can keep down the expenses of program administration, a higher portion of available funds, whether tribal program funds or funds apportioned to states, can be applied to actual projects and programs.

In summary, my main point today is that the current federal surface transportation programs do enable a state to work with tribal governments to deliver transportation improvements, including safety improvements. As the Congress works to

improve federal surface transportation programs, including the program of apportionments to states and the program for tribes, it should build on, and not detract from, the good that is in the current framework.

That concludes my statement. Thanks again for the opportunity to appear before the Committee. I'll be happy to respond to questions the Committee may have.

The CHAIRMAN. Thanks, Mr. McOmie.

Next is John Smith, who is the Director, Transportation Department, Eastern Shoshone and Northern Arapaho Tribes of the Wind River Indian Reservation, Fort Washakie, Wyoming.

Again, congratulations on being recognized by President Obama at the White House last year and being named a Champion of Change. With that, I invite you to please give your testimony.

**STATEMENT OF JOHN SMITH, DIRECTOR OF  
TRANSPORTATION, NORTHERN ARAPAHO AND EASTERN  
SHOSHONE TRIBES, WIND RIVER INDIAN RESERVATION**

Mr. SMITH. Thank you, Mr. Chairman, Vice Chairman Tester and the rest of the Senate Committee on Indian Affairs, for listening to our presentation along with the other presenters who presented before me. We all convene on several different issues, but we realize that safety is one of the major projects and one of the focuses that we endeavor together.

I will now have my colleagues put up a chart that shows some of the improvement from 2008 to 2009, and ask them to, we have an error that might be a little confusing, and that should be 100,000 population. The actual figure for the total is around 20,000 instead of 19,000. The chart is misleading. I apologize for that.

But the other chart I also have is the ones that talk about the motor crash and vehicle deaths in Indian Country as stated by Council Member Kirn, that two Indian people die in one day, every day in America. Why is this? Simply put, bad roads and more often than not, unpaved roads. We do have narrow roads, we have sharp curves, no median, no shoulders and we are asking for trouble in the design phase. Only 7 percent of the roads owned by tribes are paved, and the remaining 93 percent are gravel, earth or primitive. Only 26 percent of the BIA roads are paved.

My testimony describes a terrible situation on Cheyenne River Sioux Indian Reservation, where a school bus has to go through two hills, narrow roads and the bus driver has the children exit the road, he drives up to the top of the road and they get on one hill, and they go a little ways, they have to climb another hill. And when the weather is in a critical condition, they dump the supplies for the school off in a near town called Faith. And the school has to go bring their own supplies up to the school children to eat.

I do that in favor of my brothers from Cheyenne River, and I met with them in Pine Ridge recently. We have had a little discussion about what we wanted to do. Also, Mr. Chairman, as mentioned by Del McOmie, that the transit operation has given us the opportunity to buy medical rights to our people on dialysis on Wind River, the Shoshone Tribe has a dialysis center. We transport 74 individuals daily or weekly, every other day, for medical treatment, which maintains their lives.

There are a number of other things in our maintenance charts we can show, if they could put that up, please, that indicates how

we look at our maintenance funding, BIA and tribal roads. In authorizing MAP-21, previously in 1982 we had \$45 million for roads. In SAFETEA-LU, prior to that, after they cut, the OMB and BIA looked at combining the road maintenance and taking 25 percent off of our construction costs, which prevents us from providing more construction dollars, backlogging the maintenance costs that are direly needed for improvement. So that limits our ability to improve safety.

In our construction projects we fix potholes, we have what is called deferred maintenance, where we chip-seal roads, we try to prolong our roads and do chip-seal projects, protecting our pavement. But as we begin talking about what is a remedy that would happen, I think with the issue at hand, you can see we all need funding. We all need more funding. We have a proposal called by the TTUC Act that the tribes fully endorse putting that into a bill to come out of the Committee here to be presented to the EPW committee as they consider legislation. We definitely want to improve that.

But finally, Mr. Chairman, I ask you to convene a meeting with the leadership of Interior Appropriations Subcommittee, the Department of Interior and OMB to address this crisis and give it the gravity it deserves to improve the course of the maintenance program. It is an extremely small amount of money, relative to the tens of billions of dollars in increases of defense or other programs that the Senate and the House are dealing with today. So I don't want you to declare war on Indian Country, but I would like to receive some of those funds attributed to our needs.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Smith follows:]

PREPARED STATEMENT OF JOHN SMITH, DIRECTOR OF TRANSPORTATION, NORTHERN ARAPAHO AND EASTERN SHOSHONE TRIBES, WIND RIVER INDIAN RESERVATION

Chairman Barrasso, Vice Chairman Tester and Honorable Members of the Senate Committee on Indian Affairs. My name is John Smith and I have the honor of being the Transportation Director for the Northern Arapaho and Eastern Shoshone Tribes of the Wind River Indian Reservation in Wyoming. I wear a few different hats, as I am also the Executive Director of Intertribal Transportation Association and have served on many task forces and panels dealing with transportation in Indian country. Although I am not authorized to speak on behalf of them, based on my recent meetings with tribes in Montana, Wyoming, North and South Dakota, I believe my thoughts are consistent with what I have heard from many others. I do want to express my appreciation to this committee and particularly to the Chairman and Vice Chairman for convening this hearing and inviting my testimony.

As you have heard over the years, Indian people are injured and killed in automobile accidents at rates far higher than any other group in the United States. There is much empirical data to this effect from various studies including a number by the Centers for Disease Control. We do have a problem with traffic safety on Indian reservations and you are to be commended for holding a hearing that focuses on this problem.

I have some charts that Mr. Waters and Mr. Lambert are now displaying that paint a disturbing picture. The data in this first chart is a little dated as it comes from 2009 but it shows Pedestrian Deaths on Public Roads by race. While there was some improvement from 2008 to 2009, you can see that even in the better year of 2009 that Indian pedestrians die at a rate that is nearly 80 percent higher than do non-Indians. Mr. Chairman, I have spent my life on Indian reservations and I can tell you why this rate is so much higher for our people. I can't remember the last reservation I was on that had sidewalks, but even more alarming are the numbers of roads in Indian country without adequate shoulders or perhaps any shoulders at all. The roads in Indian country are also often lacking in guardrails, cross-

walks and overpasses. Why is that? Let me answer that question in a moment but first I would ask my friends to put up the next chart.

Whereas the first chart focused on pedestrians, this chart is a comparison of all manner of Motor Vehicle Deaths and what it shows is even worse. When it comes to motor vehicle deaths, Indian people die at more than double the rate than non-Indians do. In the Great Plains and Rocky Mountain regions, the data, is much worse, particularly among our Indian youth under the age of 19. There deaths are three and a half to four times the national average for motor vehicle deaths, and four and a half to five times the national rate for pedestrian fatalities. The Wind River Reservation has the dubious distinction of having the highest rate of pedestrian deaths in the U.S. Nationally, two Indian people die every day in motor vehicle accidents and American Indian infants die at a rate that is eight time the national average for non-Indians.

Pedestrian deaths on the roadways of Indian country and death and injury of occupants of cars and trucks on those same roads have one thing in common: bad roads and, more often than not, unpaved roads. When you have narrow roads, with sharp curves, no medians and no shoulders, you are asking for trouble. Only 7 percent of the roads owned by Indian tribes are paved, the remaining 93 percent are gravel, earth or primitive roads and only 26 percent of the roads owned by the Bureau of Indian Affairs are paved, the remaining 74 percent are gravel, earth or primitive.

Mr. Chairman on the Cheyenne River Sioux Indian Reservation in South Dakota, there is a road known simply as BIA Route 11. It leads to the Takini School, which houses Kindergarten through 12th grade students. Route 11 is hilly and has so many problems that during inclement weather, the bus driver stops at the bottom of steeper stretches of Route 11 and unloads the children. He then guns the bus to the top of the hill. The children walk up the hill and get back on the bus again and he repeats this same routine at the next hill. He doesn't do this because the bus lacks the power, he does it because he is fearful the bus will slide off the side of the road, a road with almost no shoulder and drop offs on either side. His theory is that if the bus slides off the road and flips over, it is better that he be the only passenger. In inclement weather, vendors often refuse to deliver their products—including food for lunches—to this school because they are fearful of driving on the road. On those days, they will leave their product in the town of Howes, which is 32 miles away, or the town of Faith, which is 40 miles away. School employees will then have to undertake a 64 or 80 mile round trip to retrieve vendors' products. So not only do the bad roads lead to death and injury among our Indian people, but they disrupt education, on bad days they make getting to work impossible, they greatly delay or prohibit emergency response vehicles from responding in a timely basis; they serve as a major disincentive to economic development and make it impossible to entice businesses to locate on such lands. We already are lacking in nearby hospitals or clinics throughout much of Indian country but when ambulances endeavoring to retrieve and deliver a person injured in an auto accident have to traverse roads like Route 11—which in the best of circumstances greatly slows them down and in the worst circumstances makes access nearly impossible—you can imagine what effect that has on the ability to save a badly injured resident. Engineering estimates are that it will cost just under \$10 million to rebuild Route 11 to safe conditions. That is many times what the Tribe's total road budget is for the entire reservation. They have asked my advice and alii can recommend is to submit to DOT for a TIGER grant and pray that it gets funded. The odds are great that it won't be.

Indian tribal governments could also play a key role in reducing the death rates among passengers in motor vehicles by establishing codes and enforcing seat belt and child safety restraint use laws and regulations as the larger non-Indian community has. This is now happening more and more in recent years but tribes absolutely have some catching up to do in this regard. We also need education campaigns about the dangers of riding in the backs of pickup trucks, driving while under the influence of alcohol and distracted driving. I am glad to see that the Federal Highway Administration has been convening Tribal Safety Summits which are teaching tribal transportation planners such as me the latest on successful education campaigns that we can implement on our homelands.

Another problem that tribes face is that so many of our reservations were allotted during the ill-conceived Allotment Era and the land is checker-boarded with various governments having varying laws and regulations applicable on the same reservation. In those instances it is important for tribes, state and counties to coordinate on seat belt laws for instance. I for one am glad the Tribes on the Wind River Reservation are now coordinating much more with the state than we did just a few years ago and I am delighted to see my friend and colleague Del McOmie, the Chief

Engineer of the Wyoming Department of Transportation (WYDOT), here today and on this panel.

Not only can tribes coordinate better on safety enforcement but on road construction as well. WYDOT and my department jointly undertook a major construction project when we rebuilt what is known as 17 Mile Road on the Wind River Reservation. This had been one of the most dangerous roads in the country with many accidents and fatalities. It was a road that carried about 3,000 people a day including over 1,000 students. Not only did the construction of the road result in the creation of 130 jobs for tribal workers but we widened much of the road from 22 feet to 40 feet, we put up 28 miles of fence and installed cattle guards and replaced irrigation pipe running alongside the road. Since we opened it up in October 2013, we have only had an 84 percent reduction in injuries and only one major accident and unlike the pre-construction days, the car involved didn't roll over in the ditch next to the road as the ditch no longer exists. We have also instituted culturally geared traffic safety messaging that is in English as well as the Arapaho and Shoshone languages and we coordinated with the University of Wyoming to prepare a reservation-wide Traffic Safety Plan and are coordinating these initiatives with the state of Wyoming. Attached is a write up about our program including some of the safety messaging ads and billboards we are using.

Mr. Chairman, I must say that while driver education and safety orientation campaigns will definitely help and must receive more funding, the main problem we have is that both the Congress and the Administration (regardless of party affiliation) are so profoundly underfunding the road system in Indian country that we will never have safe roads unless they are properly built and maintained. If your roads are icy and full of dangerous curves and gigantic potholes because you don't have the money to maintain them and if you don't have proper signage and wide shoulders, you can educate people until the cows come home. You won't have safe roads.

Let's first examine the Bureau of Indian Affairs Road Maintenance Program. In 1992 the BIA Roads program was funded at \$41 million a year. That level of funding was, by all accounts profoundly less than was necessary for the maintenance that was needed on our roads. So what is the BIA's road maintenance budget this year, 23 years later? Mr. Chairman it is \$26 million! That is \$15 million LESS that we had two decades ago and of course that does not take inflation into account. If the appropriations in the BIA's road maintenance budget in the early 1990s had simply been allowed to grow at a normal rate and reflect need the budget for that program would be over \$110 million today. Instead it is \$26 million. You need not look any further than that one statistic alone to get a good idea why we have the problems we do on our roads. If you ask the BIA how they could possibly justify reducing the BIA Road Maintenance budget they will undoubtedly tell you that they did so when the TEA-21 highway bill became law which included a decent increase in funding for reservation roads. The problem with that argument is that the Congress specifically told the BIA, time and time again, that the increase in the DOT budget was for road construction and renovation and that the BIA was still the primary entity responsible for maintaining those roads. The Congress told the BIA not to reduce the maintenance budget in lieu of the increased funds being made available for construction and renovation. The BIA, undoubtedly pushed to do so by OBM, flatly ignored that directive and we have seen the results, a huge reduction in maintenance funds and the corresponding deterioration of roads on reservations, and the unnecessary deaths and injuries of untold numbers Indian people.

Mr. Chairman, there are 566 Indian tribes and 56 million acres of trust land. There are 31,400 miles of BIA roads and 26,000 miles of Tribal roads on those lands for a combined total of 57,400 miles of roads. These roads only get funds from the federal government for maintenance; they get no help from counties or states. \$26 million divided by 57,400 miles equates to \$452 per mile for maintenance. The BIA is more directly responsible for their roads than they are for tribal roads so the figure may be closer to \$600 per mile but whether it is \$400 or \$600, it should be compared to what state and counties spend per miles for road maintenance. This figure varies widely depending on what data is used and what study you rely on. The Federal Highway Administration (FHWA) says that over \$46 billion was spent on road maintenance by all units of government in 2010, and there are approximately 4 million miles of road in the U.S. As this chart shows, that breaks down to about \$11,000 per mile. A study prepared by the Illinois Institute for Rural Affairs and Agricultural Economics Department at the University of Wisconsin indicated that counties are spending over \$16,000 and metropolitan counties are spending almost \$30,000 per mile. For the sake of argument, let's accept the lower \$11,000 figure. How can the BIA expect tribes to protect the lives of their citizens when it provides less than 5 percent of what the counties are spending on road maintenance? Mr.

Chairman this is gross negligence and Indian people are paying for it with their lives. The chart being displayed now shows this disparity. You know it occurred to me that when tribes sued the BIA and IHS for non-payment of contract support costs they prevailed and now we are seeing realistic requests from the Administration for that program. When tribal trust lands were grossly mismanaged a number of tribes sued under what is known as the *Salazar* cases and received a multi-billion settlement. It is a sad commentary that apparently the only way the BIA and OMB will step up to the plate and request what is needed for road maintenance, is for the estates of Indian people killed or maimed on bad roads to sue them and get a court order or an out of court settlement requiring the agency to respond to this very serious problem. By the BIA's own admission, 83 percent of BIA system roads are deemed to be in an "unacceptable condition" yet their request to Congress for the past 19 years has stayed flat varying between \$24 to \$26 million. I find that incredible.

Because the BIA has been so negligent in maintaining the roads in Indian country the Congress and the FHWA reluctantly agreed that up to 25 percent of the Highway Trust Fund money that is supposed to be used for construction and renovation of Indian reservation roads, can be used for maintenance. This of course means there is that much less money available for new construction, improvement or reconstruction of roads. Among other things this means that dangerous and windy gravel roads will be less likely to be replaced with better designed, safer paved roads. In addition to the previously referenced 57,400 miles of BIA and Tribal roads there are also 101,000 miles of State and County roads that are part of the National Tribal Transportation Facility Inventory and that must be factored into the allocation system.

When Congress enacted MAP-21, they did make improvements to the allocation formula for distributing Highway Trust Fund dollars to Indian country, shifting the focus more toward on-reservation BIA and Tribal roads and away from county roads, proposed roads and access roads but they left the funding amount flat at \$450 million. This actually represents a decrease because SAFETEA-LU had funded the Indian Reservation Bridge program separately from 2008-2012 in the amount of \$14 million and MAP-21 simply told tribes to take the bridge money away from what is now called the Tribal Transportation Program (TTP) so the \$450 million actually represents a \$14 million loss. There are over 4,000 bridges in Indian country identified in the TTP and 25 percent of them have been rated structurally deficient or functionally obsolete. The cost to replace or rehabilitate those bridges is more than \$600 million so eliminating the separately funded bridge program in MAP-21 was a bit bewildering.

There are also a number of so called "take downs" that take money away from the \$450 million before it ever gets distributed to Tribes. In 2014 those takedowns were as follows: minus \$22.9 million (5.1 percent) for Obligation Limitation; minus \$9 million (2 percent) for Safety Program; minus \$9 million (2 percent) for Planning; minus \$9 million (2 percent) for Bridges and minus \$27 million (6 percent) for BIA and DOT Administration. These take-downs total \$76.9 million taken from the TPP before it is distributed through the formula. All of them should be funded separately and not taken out of the formula pot and we ask this committee to support the proposal to exempt the TPP from the Obligation Limitation. That \$23 million has a profound impact on the overall TPP but is such a small amount of the overall \$40.2 billion Federal Aid Program that it wouldn't even be missed. This would restore things to how they were before TEA-21 was enacted as that was the first time the Obligation Limitation was applied to the Indian Reservation Road Program (now TTP). MAP-21 also requires bridge inspections but it provides no funding we can use to undertake these expensive inspections. It is an unfunded mandate that needs to be addressed in a MAP-21 reauthorization.

There are a number of concrete and achievable things the Congress could do generally as outlined in the proposed Tribal Transportation Unity Coalition's recommendations for reauthorizing MAP-21, most importantly to increase the TTP to a level that will allow Indian country to address the multi-billion backlog of necessary road construction projects. The Tribal Transportation Unity Caucus (TTUC) recommends funding at the TPP at \$800 million in the first year of reauthorization. If that is not possible, a funding level of \$700 million would represent an amount that would allow us to address the backlog. The Indian Country Bridge program needs to be funded at a level of at least \$75 million independent of the TPP. We ask the members of this committee to introduce the draft legislation that has been provided by the TTUC as a means of laying down markers that we hope would influence the Senate EPW Committee as it works to reauthorize MAP-21. Among its other provisions, the draft legislation proposes to establish a 2 percent set-aside for tribes in the Highway Safety Improvement Program and increases NHTSA's Tribal

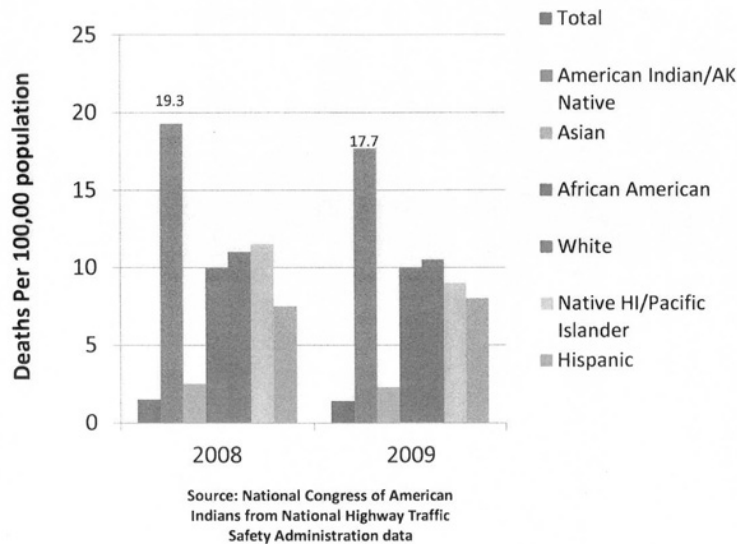
Safety Program from 2 percent to 3.5 percent. With those funds, Indian tribes could undertake many initiatives that would increase traffic and pedestrian safety on Indian reservations.

Finally, Chairman Barrasso and Vice Chairman Tester, I ask you convene a meeting with the leadership of the Interior Appropriations Subcommittee, the Department of the Interior and OMB to address this crisis with the gravity that it deserves and determine a method so that over the course of the next two to three years that the BIA Maintenance budget be put on a glide path to \$150 million a year in funding. That is an extremely small amount of money relative to the tens of billions of dollars in increases for Defense and other programs that I understand are being discussed here in Congress this week but would absolutely save lives in Indian country.

Thank you again for inviting me and for your consideration of my views.

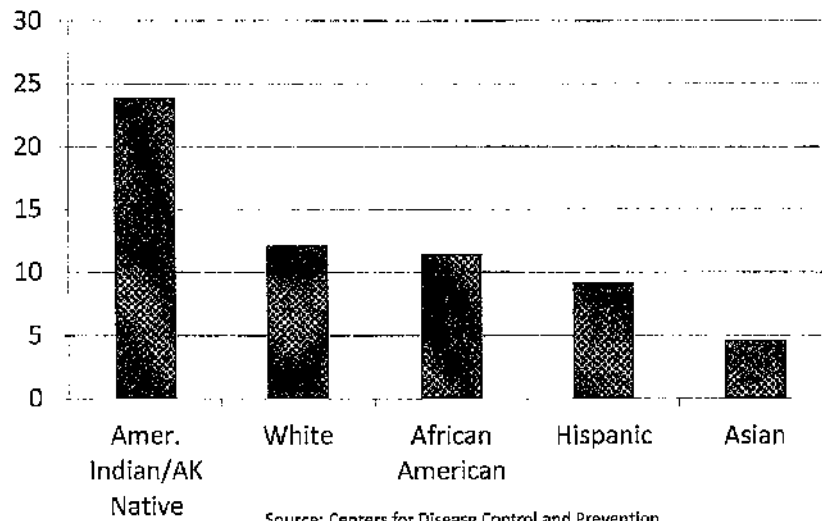
#### **Attachments**

#### **Pedestrian Deaths on Public Roads by Race/Ethnicity 2008 – 2009**

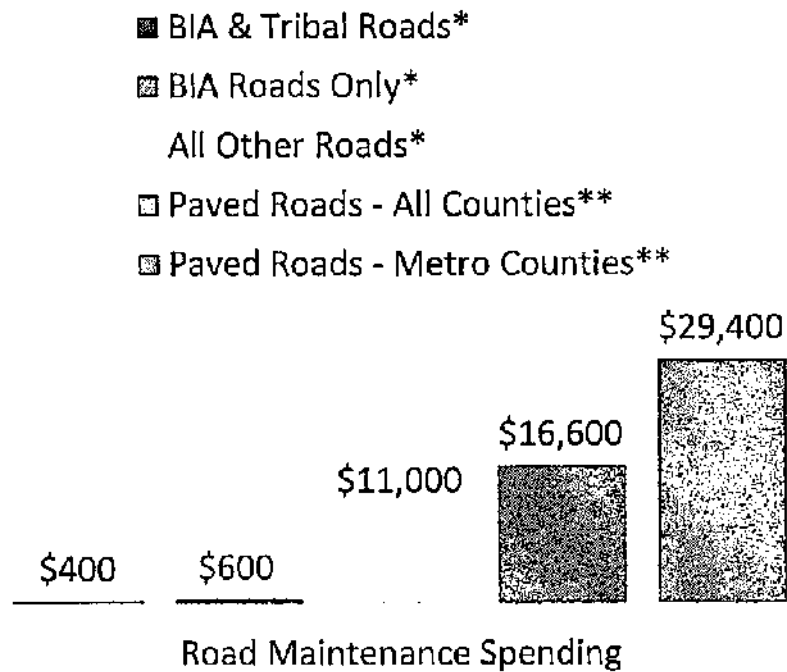




**Motor Vehicle Death Fatality Rate by  
Race/Ethnicity in the U.S. in 2013 (per 100,000  
population)**



## Road Maintenance Spending Per Mile



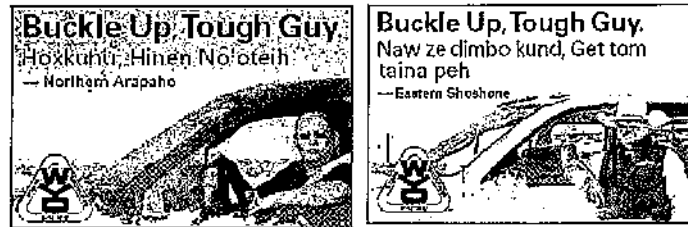
Sources: \*Federal Highway Administration

\*\*1997 USDA Report: Rural Roads and Bridges – Financing Local Roads and Bridges in Rural Areas

The Wind River Indian Reservation encompasses approximately 2,268,000 acres of land in Wyoming and is home to over 4,005 Eastern Shoshone and 8,600 Northern Arapaho tribal members. Each tribe elects its own tribal government and for many years a Joint Business Council has served to steward issues of mutual interest. To paint a portrait of the reservation, it is extremely rural, the roads that traverse it are sometimes dangerously winding, and adequate road safety enforcement is lacking. In Fort Washakie, the main hub of the community, there are very few safe pedestrian walkways to access services such as the schools, tribal offices, and the Hines General Store—yet there is a great deal of foot traffic. For many years, the community had suffered many pedestrian/vehicle injuries—with several resulting in death.

Despite this rather grim picture, strategic tribal investments in transportation have dramatically reduced unintentional injuries along the reservation's roads. As the Transportation Director of the Eastern Shoshone and Northern Arapaho Joint Business Council, "Big John" Smith has led the development of a comprehensive, culturally-informed and coordinated transportation safety program. Some of the highlights of the Tribes' efforts include: (1) The development of culturally-g geared traffic safety messaging on reservation roadways; (2) The establishment of a Reservation Traffic Safety Plan; (3) Intergovernmental coordination; and (4) The successful completion of the 17-Mile Road.

With regard to the development of new safety messaging, the Eastern Shoshone and Northern Arapaho tribes partnered with Hispanidad (a National Highway Traffic Safety Administration approved marketing firm based in Denver, CO), to create a billboard and radio campaign to promote road safety. One theme was "Show Me Your Love, Buckle Me Up," which included images of children buckled up safely; another was the "Buckle Up, Tough Guy," which focused on increasing seatbelt use among Native men. These campaigns were entirely Native-created; even the messages are translated into the Shoshone and Arapaho languages.



*Images Courtesy of Hispanidad*

The tribes also partnered with researchers at the University of Wyoming in achieving the next accomplishment, which was the development of a Reservation Traffic Safety Plan. Through this process, the Wind River Indian Reservation implemented a methodology designed to assist tribes in identifying low-cost safety improvement on their roads.<sup>19</sup> This approach included the examination of crash data, two levels of field evaluation and rankings using crash and roadway infrastructure scales, and cost-benefit analyses. Effective development of this plan required coordination across various agencies and led to the development of a comprehensive traffic safety plan, as well as a pedestrian and walkway long range transportation plan.<sup>20</sup>

And in this vein of intergovernmental cooperation, Smith has raised awareness of and attention to priority transportation needs facing tribal communities by leveraging his leadership on tribal, regional, and national transportation organizations. His role as the Rocky Mountain Regional Representative on the Tribal Transportation Committee and as the Executive Director of the Intertribal Transportation Association have been essential in advocating for key infrastructural needs, developing targeted education campaigns, and fostering community action to promote road safety and prevent unintentional injuries and deaths. Specifically, he has helped to coordinate two reservation safety conferences that have fostered coordination and information sharing. Tribes in Alaska, Arizona, California, Minnesota, Montana, New Mexico, New York, Oklahoma, South Dakota, and Washington have also hosted Tribal Transportation Safety Summits since 2008.<sup>21</sup>

Finally, through data analysis, agency coordination, and priority identification, transportation leaders at Wind River successfully advocated for the completion of one of the most dangerous sections of highway in the state: the east section of the 17-Mile Road. Completed over six years at a cost of \$17.6 million dollars, funded in part through the TIGER grant program of the American Recovery and Reinvestment Act of 2009, the project employed over 130 tribal workers who earned over \$4.5 million in wages and helped to minimize the occurrence of car crashes along this road—each of which averaged \$74,000 in costs to the community. Once complete, the road was blessed with a cedarizing ceremony, led by Transportation Planner Big John Smith, Nelson White, and Leonard Moss, as pictured below.



*Cedarizing ceremony for the 17-Mile Road. Image courtesy of WyoFile.*

Wyoming Department of Transportation data from before and after the upgrades indicate that:

- 1) Fatalities declined from 4 to 1;
- 2) Injury Crashes declined from 25 to 7;
- 3) Injuries declined from 63 to 10; and
- 4) Total Crashes declined from 65 to 18 (an overall decrease of 72 percent).

This case illustrates how strategic investments and access to crucial resources (e.g. the TIGER grant) paired with a strong and culturally-driven vision for safety can prevent injury and death.

The CHAIRMAN. Thank you very much, Mr. Smith.

Let me just start with a couple of questions while we wait for some of our other colleagues to get back from voting. I think what you and Del have accomplished and achieved together on 17 Mile Road is really a great accomplishment. It is a model that could be followed all throughout Indian Country.

With the large inventory of roads, certainly in the Wind River Reservation, there is still a lot of work that needs to be done. That means that we have to find the most efficient uses for every dollar. In addition, as you said, to more dollars, we need to make sure that the dollars that are available are being used well and specifically, every dollar in the tribal transportation program.

So I am just wondering how you think things like the overhead and the administrative costs for this program could be best used to actually promote road safety, if it could be made more effective, more efficient and more accountable.

Mr. SMITH. As Mr. McOmie also alluded to, some of the paperwork that is involved in putting these projects together, I have heard you use some of my quotations from when we were here testifying earlier, prior to the 17 Mile Road.

The CHAIRMAN. I quote you all around Wyoming, because it is so smart, yes.

Mr. SMITH. It felt like we were producing a mile of paperwork for every dollar we got to increase that road, with all the permits and those added things. Also, by the requirements of the Bureau of Indian Affairs in regard to right-of-way, which is being addressed right now in a rules and regulations process. We have commented on that to improve those things.

Then the permits, we hire our own permittees, but they still have to go back through the Bureau channel to get those fully authorized. So it is like getting a double authorization on a project. Particularly when you are talking about bridges, when you talk about bridges you are talking about an enormous amount of paperwork that has to go in. And if it is readily there, you can construct the bridge.

But bridges really need to be improved. Prior to SAFETEA-LU, we were at, within SAFETEA-LU we had \$14 million. In today's market, we are at \$9 million in MAP-21, which either means more money or a setaside program for bridges taken out of the program to operate. Those same levels as it was stated by Mr. Black, we have like 450 bridges that are obsolete. With the new rules in MAP-21, we are required to number and inspect tribal bridges that are within the tribal system that were not done prior. So we have a lot of work to do in regard to our bridges.

The CHAIRMAN. Thank you.

Mr. McOmie, if I could ask you, your written testimony highlighted the good work that you and Big John have accomplished to make roads safer on the Wind River Reservation. In particular, the construction of 17 Mile Road has led to a 70 percent reduction in crashes and injuries, fatalities on that road.

You also noted the need to increase flexibility for States and for tribes on road safety projects. Could you explain for the Committee some of the bureaucratic barriers that the State and tribe had experienced in constructing the 17 Mile Road? Do you think we could do things for other States so they could be incentivized to partner with tribes like you have done to improve road safety?

Mr. McOMIE. Mr. Chairman, when we began the process of working through to improve 17 Mile Road with the tribal transportation directors and members of the business council, quite frankly, WYDOT wasn't prepared to, we weren't familiar with the BIA rules and regulations that we would have to deal with. We have done that for years. But you kind of just work through the process. There had to be a better way to try and do that.

So working with John's office and the BIA members on the reservation, we began a learning curve. It has really taken years, but I think we are to the point we kind of understand the process.

What I see with some of the other States, what I have heard from some of the testimony today, is that I think perhaps the Federal Highway Administration, working with the BIA, there may be the opportunity to provide some best practices or maybe the opportunity to do some sharing of information, so that other States don't go through the many years of process that we went through in Wyoming to try and figure out just how to work the various systems, the difference between what we do currently with FHWA and how the BIA operates.

As Mr. Smith indicated, working the right-of-way issues, we do that day to day on all of our other jobs in the State of Wyoming. But it is different with the rules and regulations and the number of people involved in a parcel of land on the reservation. Utilities are another respect.

Then just how do you work with the various functions within the BIA, such as when we were installing or getting rid of the irrigation canals and working through that type of an issue. Different process than I think most State DOTs are used to. I think that sharing of information from State to State would benefit all the tribes and all the States in the Country.

Senator TESTER. [Presiding] Thank you.

Director Black, there are 900 tribally-owned bridges, about. Could you tell me what condition they are in?

Mr. BLACK. As I stated in my oral testimony, we have about 19 percent of our bridges, or around 170, 180 total bridges, that right now are deficient. We have been able to show and see some improvement over that. If you measure against nationwide against all bridges in the Country, were at about 24 percent are deficient. We have been able to reduce our deficiency from 25 percent in 2005 down to the 19 percent today.

Senator TESTER. Governor Chavarria, what impact would increasing bike paths and sidewalks have on the overall level of transportation in your neck of the woods?

Mr. CHAVARRIA. Basically, on State Road 30, we did work with the State to try to incorporate sidewalks and crosswalks, to safely allow people to cross from one side of the street to the next. So without these important discussions with the State, again, it falls on deaf ears. So again, the State or the municipality has a permanent or perpetual right-of-way agreement. And with that perpetual right-of-way agreement, it is up to the State to go ahead and provide safety mechanisms for my community members.

For instance, I had a young man get hit last year at the safety walk. Those cars don't even stop, and we have 14,000 vehicles a day on that road. So again, we proposed an overpass. They said that we didn't have enough data to support that. So again that goes into our safety plans, and working together. That is very important in order to provide a safety mechanism to our tribal members within Santa Clara Pueblo.

Senator TESTER. Good, Rick, you mentioned the impact of the Bakken and wear and tear on reservation roads. What have you done to try and help fix that problem of the wear and tear due to the heavy traffic, heavy truck traffic?

Mr. KIRN. Vice Chairman Tester, we have done quite a bit with our roads programs to rebuild the roads. We have a secondary trib-

al road on our reservation that most of us use in lieu of Highway 2. But it is still in very, very poor condition because of the weather conditions that we have, the freezing and thawing. You obviously know that, in our country, with the different weather conditions. So maintenance has really been very poor. We can't really help out as much. The counties are in very poor condition to be able to help, either.

We don't really receive as much of the royalties from the oil and gas production that some of the far eastern part of our county, close to North Dakota, has used. So we need more funds to be able to do road maintenance and to repair our roads.

Senator TESTER. So you are basically getting hammered by the heavy trucks and there is not much you can do about it, because you just don't have the funds?

Mr. KIRN. Absolutely.

Senator TESTER. Okay. You mentioned signage, guardrails, rumble strips and other elements of road design that work to increase the safety of a given road. Do you know what the costs associated with adding these features are as far as the average costs undertaken by transportation? Is this a big ticket item or pretty small in the overall scheme of things?

Mr. KIRN. I couldn't tell you, Vice Chairman Tester, on what the exact costs would be. But it would be significant. With more highway safety funding, roads and reservations are often poorly maintained because of the shortfall of road maintenance and funding. Additional safety funding could be used effectively to improve signage, striping, guardrails, flatten sharp curves, repair pavements, correct safety deficiencies on roads or bridges throughout the reservation. I think it would be significant.

Senator TESTER. Thank you all for your testimony. Because of the votes, it has been kind of hectic. I will turn it over to Senator Franken.

Senator FRANKEN. Thanks, Senator Tester, and to the Chairman. You know what, I am thinking that maybe by rules you go to Senator Daines. We have to go back and forth.

Senator TESTER. You are exactly right. I did not see Senator Daines here.

**STATEMENT OF HON. STEVE DAINES,  
U.S. SENATOR FROM MONTANA**

Senator DAINES. I had your six. Thanks, Jon.

I want to thank Chairman Barrasso and Ranking Member Tester, proudly from Montana, for holding this important hearing today. Highway safety is a critical issue in Montana. And we have some of the very worst highway fatality rates in the Country.

Mr. Kirn, it was great talking to you yesterday. Thanks for making the journey from northeast Montana. We appreciate it.

Mr. KIRN. It was our pleasure.

Senator DAINES. I know you also have some other council members, we have some folks from the Dry Prairie Rural Water Authority and it was a very productive time. Thank you.

I have made that trip across Highway 2 many times, going from the Fort Peck Reservation. One thing that strikes me when I make that trip is that there are just too many white crosses along the

highway. In fact, we have too many white crosses across the highways in our entire State. We have the highest per capita highway fatality rate in the Country. In fact, one of those white crosses is my uncle Tommy Daines. We lost him back in the mid-1960s. I remember driving south from Columbus down to Absarokee, there is a white cross, every time we drove by it when I was a kid, my grandpa lost his son, it was always a moment of silence for Tommy Daines. You never get over that.

But even more striking are the numbers in Indian Country. Mr. Kirn, you started your written testimony by stating that Indian Country roads are not safe roads. You mentioned as well that while Native Americans make up 6.5 percent of our population of Montana, they comprise 15.4 percent of highway fatalities going back to 2009.

I would like to get your thoughts around what are the factors driving this discrepancy between Indian Country and the rest of the State. And has the new electronic crash record system improved the data that is available for us to look for solutions to this problem?

Mr. KIRN. Thank you for the question, Senator Daines. You are right, my father was one of those white crosses when he was 20 years old. So I understand what you are talking about.

But I think the discrepancy in the fatalities in Montana is probably due to the poor road conditions and also because of the lack of first responders that we have for the ambulances that would respond to a crash, and the lack of trauma centers in rural reservations. We have to take our people as far as Billings, Montana or Great Falls, Montana. It just takes too much time. If there is any possibility of any kind of survival, it would really be lessened because of the distance to the trauma center from our reservations and I think most of the reservations in Montana.

Senator DAINES. You also mentioned that Fort Peck has enacted ordinances to make not wearing a seat belt a primary offense, and to ban domestic animals on highway rights-of-way. Have these led to a noticeable improvement in highway safety?

Mr. KIRN. Absolutely, Senator. Montana doesn't even have the primary seat belt law. We just thought that because of the highway fatalities and the possibility of them, we as a tribal council member, and part of our tribal council, we implemented a primary safety seat belt law. We also introduced a primary law to ban cell phone or any kind of use of phones while they are driving. It has been doing quite good. We have had good results. I couldn't give you the figures, because it has only been about a year since we have done that.

Also, the Fort Peck Tribe does not have an open range law for animals. We try to ban that from happening. Traditionally, Native Americans have livestock and their horses, in winter time, they usually turn them out. Because the farmers don't really have too much damage in the winter time, they tolerate them. But we try to educate the people on the hazards of livestock roaming on the open roads and also the people who are driving to watch out for them. So education is really important. With the funding that we could get from this program, we could educate people on those hazards.



Senator DAINES. Great. Thanks, Mr. Kirn.

I would like to yield my additional time that I have for the graciousness of the Senator from Minnesota, Senator Franken.

Senator FRANKEN. [Presiding.] Thank you, Senator. I am now, I guess, the chairman. So I would like to thank the Chair for this very important meeting on this important topic. I am stunned by the testimony of exactly what the Senator from Montana just raised, which is the outsize number of fatalities that we see in Indian Country, by percentage of population. I commend you for the work that you have done.

I personally think that we need to invest in our infrastructure all over the Country. I believe that Indian Country, given my experience here, doesn't always get first priority. Unless we really do something about our entire national infrastructure, you are not going to be getting the funds that you need. So this is an absolutely essential thing that we need to do. We can't keep doing these short-term patches on MAP-21, et cetera.

I was up at Leech Lake Reservation, went to the Bug-O-Nay-Ge-Shig School, which is a school that they have been trying to get replaced. The physical plant is a disgrace. Not only that, but some of the kids have a 100-mile round trip to the school every day. On top of everything else, it snows a lot in Minnesota, as you might know. I know it does in Montana. The roads, when it snows, the amount of plowing that is done compared to everywhere else, all of that then takes time out of the kids' school day as if they needed that.

So there is a deficit in infrastructure in Indian Country. Congress has to work to fix that.

Mr. Smith, can you talk to me more about how you end up making transportation funding decisions when you simply don't have enough resources in the first place? How do you make those decisions?

Mr. SMITH. On Wind River, we have hearings ourselves on what is called a transportation improvement program. Then the councils set the priorities. Then for the priorities, you are able to meet with your financial funds at hand are the priorities you try to complete. But much like my associate Delbert, we have roads in Wyoming that suffer the same dilemma in the State process. When they can't get a road funded, they have to reschedule that part of the road, if it is going to be a chip-seal, if it going to be a maintenance patch, however you can afford to do it is how we operate on getting our roads in a priority.

It is usually done by school bus routes, our priority. Then also roads for people who have to get into medical clinics daily or very often, once a week or twice a week need to have their priorities. We run our snow plow in the winter time, we will begin operating them at 3 or 4 o'clock in the morning over a certain level of snow-fall so our snow plows can be effective. And then we run those daily with the county and the State and process whatever road it is, plow gets dropped on it. And we do that cooperatively amongst each other to improve our road conditions in the winter time.

Senator FRANKEN. So you use triage, essentially, and do the best you can with what you have.

Mr. SMITH. Correct.

Senator FRANKEN. Most important first.

While funding is a huge issue and a crucial issue, so is addressing transportation safety through education. The White Earth Band of the Ojibwe has partnered with the University of Minnesota to develop a safety curriculum for Native American youth. I think it is important that safety education starts early. Councilman Kirn, can you talk about the role of education in improving seat belt use, I know you made it a law, and just transportation safety more generally?

Mr. KIRN. Absolutely, Senator Franken. Education is key to increasing effectiveness of increased seat belt and child constraint usage. In some cases, child restraints are not readily available for young families and education on proper use is unavailable. Seat belt use is significantly lower among Native Americans and on Indian reservations. The target age group is like 16 to 35 years old.

Public service announcement campaigns have also shown an increased awareness for this age group. Funding for safety education on reservations has always been extremely limited and increased funding would reach a greater number of the targeted age groups. Alcohol and drugs contribute to the vehicle accidents on reservations and are often not considered as major factors to the accident rate.

So educational campaigns are very important to us.

Senator FRANKEN. Thank you.

Unfortunately, I have to go vote. The Committee will stand in recess while the chairman makes his way back from the vote. I want to thank you all for your testimony, and also for the great work that you are doing. Thank you.

[Recess.]

The CHAIRMAN. [Presiding.] I want to thank you all for your patience as we have gone back and forth between the votes.

Mr. Kirn, I wanted to ask you if I could, in your written testimony you cite the Centers for Disease Control, how they found that from 2004 to 2010, Wyoming and Montana were among the top five States with the highest motor vehicle-related death rates among Native Americans. In Wyoming, a good partnership between the State and the tribes helps to find ways to improve road safety. This partnership, I believe, has significantly reduced motor vehicle-related fatalities on the Wind River Reservation. We have heard testimony to that effect today.

How do you think other States could be incentivized to partner with tribes to improve road safety?

Mr. KIRN. I think in good data collection systems, Senator Barrasso. I would like to also thank you for this opportunity to testify. As a former resident of Campbell County, Wyoming, I appreciate this opportunity.

The CHAIRMAN. We are having the crawfish boil this Friday. So you know how big of a deal that is. If you can get back, we would love to have you.

[Laughter.]

Mr. KIRN. Numerous studies have confirmed that motor vehicle accidents are significantly under-reported in Native American and Indian reservations. One study showed that Native American crashes and deaths were three times higher than the general popu-

lation. Good data collection on vehicle accidents is poorly collected, and a good data system has not been developed or implemented across Indian Country.

As a member of the Montana Board of Crime Control for the last 12 years, we have been trying to work with reservations to collect more data. Data really drives funding. We need to do that to get more funds to be able to handle these problems. We are working on that with tribes in Montana also right now. I think that once we get that data collection system up, I think we will probably have better results on all these types of funding and also for helping resolve some of these problems with crashes.

The CHAIRMAN. Mr. Black, the BIA manages thousands and thousands of miles of roads, almost 1,000 bridges. According to the Department of Interior's budget justification for fiscal year 2016, only about 17 percent of these roads, 63 percent of the bridges, are listed as acceptable, in acceptable condition. So addressing the poor conditions of these roads is going to require more than just money. Strategic planning and efficient administration are also critical.

Can you describe the Bureau of Indian Affairs' strategy and plan of action to ensure that the agency can actually effectively manage this program and improve road safety?

Mr. BLACK. I would be happy to get back to you with more specifics, Senator. But I think the answer to that, a lot of it is the collaboration between the tribes, the States, the counties and the Bureau of Indian Affairs and our other Federal partners to really come together and put our heads together. We know in the situation we are in, I think Senator Franken said it best, the States and everybody are facing crises in infrastructure right now. We are going to have to work together and pull together to see how we can best handle and manage the transportation program throughout Indian Country.

The CHAIRMAN. The National Tribal Transportation Facility Inventory consists of about 160,000 miles of public roads with multiple owners, including, as you said, as Senator Franken said, tribal governments, Federal Government, State government, local government. And when there is an accident on a roadway, damages can occur to government property, including bridges, guard rails, signs, curbs, sidewalks, all the things that are related.

Typically, insurance payments are collected of the damages that motorists have caused to public infrastructure. Are there different options that tribes can pursue to recover damages to the property caused by motorists?

Mr. BLACK. At this time, I am not sure. I am not aware of any mechanism that is out there that would allow either the Bureau of Indian Affairs or tribes to collect funding for damages to roads. Currently that is not something we track. I would be happy to go back and see if there are some options that we can present.

The CHAIRMAN. It does seem as a result of some of these accidents that there are unrecovered damages to Federal, tribal property in Indian Country. I don't know if anyone else has any thoughts on that or any suggestions or anything that you have done individually. Mr. McOmie?

Mr. McOMIE. Mr. Chairman, the Wyoming Department of Transportation, we do track accidents that damage our property. We ac-

tually go and bill the individuals. Generally it is the insurance companies that pay for that. We have recently had a couple of bridge strikes, for example, that were well in excess of a million dollars. So we are recouping that money from the insurance companies.

So I think that is an option. Again, you need a good tracking mechanism for damage repairs. But I believe most State DOTs operate in a similar fashion.

The CHAIRMAN. Okay, thank you.

Anything else any of you would like to add as a result of the hearings today? Yes, sir.

Mr. CHAVARRIA. Yes, Mr. Chairman. Just reducing transportation fatalities and serious injuries with any sustained success requires all four elements of highway safety to be addressed: engineering, enforcement, education and emergency services. A tribal safety program, whether large or small, should work to address the four Es.

And its foundation, which is data. Data collection and analysis provides technical staff and decision makers the ability to identify and prioritize safety issues. This goes back to crash data and roadway data and citation information, provides a basis for developing a safety plan, proposing strategies and developing needed education programs on tribal lands. The strategies that follow in this safety plan will support Santa Clara's tribal government as they manage the safety program, working with the BIA, Department of Transportation and the State and local government, the counties. That is very important, Mr. Chairman.

The CHAIRMAN. For anyone who didn't have their pen out when you started on the four Es, can you go over those four Es again?

Mr. CHAVARRIA. That is engineering, enforcement, education and emergency services.

The CHAIRMAN. Thank you so much. I appreciate everyone's testimony today. Thank you so much for being with us.

If there are no more questions, and there don't appear to be, members may also submit follow-up written questions. They can do that for the record, so the hearing record will be open for two more weeks. I want to thank all of you for being here today and for working with us as we have tried to go through a number of votes on the Senate Floor. I thank you for your time and for your testimony today.

This hearing is adjourned.

[Whereupon, at 3:44 p.m., the hearing was adjourned.]

## A P P E N D I X

PREPARED STATEMENT OF HON. DAVE ARCHAMBAULT II, CHAIRMAN, STANDING ROCK  
SIOUX TRIBE

As this Congress works to find a robust, bipartisan, and bicameral solution to ensure solvency for the Highway Trust fund and pass a long-term reauthorization to the current highway legislation, we ask that Indian tribes be fully included. We are not now.

The current state of transportation infrastructure in Indian Country is unacceptable. Longstanding funding shortfalls and bureaucratic inefficiencies have resulted in road systems that are unsafe—motor vehicle-related death rates for Native Americans are 1.5 times as high as that of white and African Americans, and Native American infants are 8 times as likely to die in a motor-vehicle related incident as non-hispanic whites and hinder much-needed economic development and jobs. Our Tribal government is working hard to build our communities and strengthen our economy, but it takes modern transportation infrastructure to safely move people and goods through and within our communities arid territory. The next highway bill must break down transportation barriers that now exist in Indian Country.

With MAP-21 expiring May 31st, Congress has an opportunity to significantly improve this situation. The Tribal Transportation Unity Caucus (TTUC), a broad coalition of diverse Indian tribes from across the country, has proposed a legislative package that includes fair and equitable funding increases and common-sense program improvements to address Indian Country's backlog of crumbling or non-existent transportation infrastructure, promote Tribal economic development, and reduce the tragic and unacceptably high rate of motor vehicle fatalities and pedestrian deaths among Native Americans.

We join the TTUC, the National Congress of American Indians (NCAI), the Intertribal Transportation Association (ITA), and many other Tribes and Tribal organizations across the country in supporting these proposals. We ask that you do so as well.

In the next highway bill, we ask that you more than restore MAP-21's \$14 million funding reduction to the Tribal Transportation Program (TTP) and recognize how much more we could do if the TTP were funded along the lines of the TTUA proposals. We ask that Congress restore the obligation limitation deduction exemption (the deduction has removed \$320 million from the IRR and Tribal Transportation Programs since FY2005), fund the Tribal High Priority Projects (HPP) Program authorized, but not funded, in MAP-21, and open it to every Indian tribe regardless of size to help us supplement our "tribal shares" under the TTP funding formula. We ask that Congress increase highway safety funds so that we may reduce alcohol-involved crashes and enhance seat belt and child safety seat compliance.

We further ask that Congress enact common sense streamlining provisions, such as making tribes eligible direct recipients of all U.S. Department of Transportation discretionary and competitive grants, extend the highly successful tribal self-governance policy to the U.S. Department of Transportation (USDOT), and expand the use of existing Tribal Transportation Program agreements so that tribes may receive other USDOT transportation funds (e.g., Federal Transit Administration and National Highway Traffic Safety Administration funds).

Many of these proposed legislative provisions would come at no additional cost, but would instead provide easier access to funding sources technically available but costly for Tribes to access. These recommendations will make a world of difference if Congress enacts them.

When given the chance, Tribal governments have proven time and again that we can make productive use of our limited resources to improve the lives of our Tribal members and others using our roadways. We can do so much more with your help and partnership. Please support the TTUC's common-sense proposals. The federal trust responsibility demands no less.

PREPARED STATEMENT OF HON. FRED S. VALLO, SR., GOVERNOR, PUEBLO OF ACOMA

**Introduction.** This testimony is intended to supplement the testimony provided by the Honorable J. Michael Chavarria, Governor of the Santa Clara Pueblo before the Committee in the above titled hearing. In his testimony, Governor Chavarria noted:

“Santa Clara does not have a railroad passing through our lands, but many other tribes do. We have been advised that railroad crossings in Indian Country pose a significant hazard. For example, the Pueblo of Acoma has its community housing and public safety facilities on the south-side of the BNSF tracks, while the hospital, the interstate (with 200,000 cars passing a day) and two major transcontinental pipelines lie on the north-side. With over 85 trains a day, each about two miles long, Acoma has sought Transportation Investment Generating Economic Recovery (TIGER) funding for a bridge to prevent delays for public safety services and to reduce the risk of accidents. There is no set-aside in TIGER for tribes, but there should be. Tribes seem to be getting a very small share of these funds despite the substantial need.”

This supplemental testimony briefly describes the issues that Acoma has been dealing with and then provides more detail on the specific example of the railroad crossing.

#### **Mesa Hill Bridge and Road Extension Project—Acoma Pueblo, New Mexico**

##### *Issues*

- Issue 1—The Pueblo of Application submitted U.S. Department of Transportation TIGER I to TIGER VI construction funding applications every year and were denied. National competition is very competitive.
- Issue 2—The U.S. Department of Transportation TIGER Program attempts to fund many projects nationally thereby reducing Pueblo of Acoma’s full amount for the bridge and road construction project. This disqualifies Acoma Pueblo and other rural Indian tribes from the beginning of application eligibility criteria.
- Issue 3—The U.S. Department of Transportation should set-aside TIGER grant funds for rural, Indian tribes.
- Issue 4—The U.S. Department of Transportation TIGER Program should not penalize Indian tribes from receiving a TIGER award if matching funds are not possible.

##### **Project Description**

The Mesa Hill Bridge and Road Extension Project is to construct a 1,160-foot span bridge superstructure and increase 0.718 miles of roadway from SP 36 to SP 30 including a turning lane on SP 30. The project site is 1.0 mile south of Interstate 40 at Exit 100. The road and bridge will go over the Burlington Northern Santa Fe (BNSF) Railway’s two-main lines which will reserve room for a possible third track, the Rio San Jose, two traditional irrigation systems, Kinder Morgan (natural gas) utility service lines and traditional farming lands. The project is construction ready.

##### **Safety Factors**

The bridge design over the BNSF Railway accomplishes long term public safety needs that complement economic growth. First, the overpass design will allow BNSF Railway to proceed with its intense transportation schedule through rural federal reservation tribal lands. The multimodal movement on the railway and roadway provides a safe, connected and accessible system for the delivery of goods and people. Vehicle traffic will be minimized at nearby rail at-grade crossings. This will minimize or even eliminate the potential of vehicle-train collisions.

According to the Office of Safety Analysis, Federal Railroad Administration, U.S. Department of Transportation website, the BNSF Railway highway-rail and trespassing incidents account for a significant number of all incidents:

Nation-Wide	2009	2010	2011	2012	2013
Total Accidents/Incidents	1614	1670	1530	1318	1312
Total fatalities	123	123	106	79	115
Highway-Rail and Trespassing Incidents	257	297	289	286	312
Total Fatalities	115	118	100	75	112
Percentage of all fatalities	94%	96%	94%	95%	97%

The Office of Safety Analysis defines total accidents and incidents as the sum of train accidents, highway-rail and other incidents. Highway-rail and trespassing incidents are impacts between a rail and a highway user at a crossing site, regardless of severity; this includes motor vehicles and other highway/roadway/sidewalk users at both public and private at-grade crossings.

In the State of New Mexico, the percentage of total fatalities is 100 percent at-grade crossings and sidewalks:

New Mexico	2009	2010	2011	2012	2013
Total Accidents/Incidents	56	52	38	38	45
Total fatalities	11	8	6	1	7
Highway-Rail & Trespassing Incidents	6	3	2	3	7
Total Fatalities	9	8	6	1	7
Percentage of all fatalities	82%	100%	100%	100%	100%

In a no-build situation, the result would be that the fatality rates at at-grade crossings and pedestrians crossing at railroad tracks will continue to remain the same or increase. This would be devastating. Currently, it takes 4 minutes for a train to pass on one track. At times, there is another train passing on the second track increasing the wait time to 8 minutes. If a third track is installed, the wait time will be increased to 12 minutes. Four minutes alone is crucial in a life and death situation.

Second, in a build situation, the bridge design will eliminate delays when emergency responders must stop at at-grade crossings to allow trains to travel. According to Acoma police reports for 2013, when responding to emergency calls the following train delays were recorded:

January at 8 delays	July at 7 delays
February at 2 delays	August at 4 delays
March at 2 delays	September at 4 delays
April at 2 delays	October at 4 delays
May at 4 delays	November 0 delays
June at 3 delays	December 0 delays

There is an average of 3.33 delays per month for the past year.

Between January 2007 to December 2012, the Acoma Pueblo Public Safety Department responded to 301 vehicle accidents or an average of 40.5 vehicle accidents per year. Vehicle accidents occurred on the following major roads:

Pueblo Road, SP 30	74
Sky City Casino area, Exit 102 off I-40	67
Interstate 40	51
Pinsbaari Road, SP 32	27
Haaku Road, SP 38	24
<b>TOTAL</b>	<b>243</b>

Nearly half of vehicle accidents listed above are on Interstate 40 and at Interstate 40 Exit 102 area. The Acoma Pueblo Police Department must cross the railroad tracks to these high vehicle traffic and population areas. It is important to note that from Interstate 40, tourists and visitors travel on Pueblo Road and cross the railroad tracks to Pinsbaari Road and Haaku Road which leads to the national historic site of "Sky City."

For the past 3 years, the Acoma Pueblo Fire Department responded to an average of 930 emergency calls per year:

Structure Fires	6	6	7
Vehicle Fires	12	11	16
Vegetation Fires	51	46	39
EMS Incidents	412	547	621
Rescue Incidents	71	95	115
Hazmat Incidents	12	16	25
Service Incidents	54	61	74
Public Assistance	47	52	65
False Alarms	39	64	73
Other	42	53	59

TOTAL	746	951	1094
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There is excellent collaboration with other off-reservation public safety agencies. The nearby community of Cubero has a volunteer fire department and has assisted with several calls on Acoma Pueblo lands. The Acoma Pueblo fire department and police department are assisted with county and state public safety agencies in a number of incidents such as bomb threats, natural disasters, hazardous spills and interstate traffic accidents.

The two major at-grade crossings on Acoma Pueblo lands are 6.7 miles apart. When one at-grade crossing is closed due to railway traffic stoppage or railway incident, our emergency responders must travel an additional 13 miles or greater which increases response time to 28 minutes or greater—this is unacceptable! The construction of the proposed bridge is needed because it will be located in a centralized location between the two major at-grade crossings thereby reducing significant time to respond to emergencies.

Third, worker traffic is over 810 people per day coming to work at Acoma Pueblo tribal government, schools, hospital and businesses. There are several hundreds of workers that drive to off-reservation work sites. For example, workers travel to Albuquerque, Laguna Pueblo, Cubero, Grants, Gallup and areas in between. School children are bused to nearby off-reservation towns at Grants, Laguna Pueblo, San Fidel and Cubero. Community residents also travel to post-secondary schools at Albuquerque and Grants. Emergency responders will reach accidents in less time with no train delays. Visitors, tourists and all travelers will be reached in an efficient manner when accidents occur on or near tribal lands including access to the local hospital.

In 2013, Acoma Pueblo submitted our written comments and recommendations to the New Mexico Department of Transportation (NMDOT) in regards to the New Mexico Railway Plan. Our comments focused on railway safety concerns including the need for the Mesa Hill Bridge and Road Extension Project. Additional comments included establishing quiet zones, railway right-of-way maintenance and fencing, and eliminating vibration damage to historical buildings.

#### PREPARED STATEMENT OF:

Hon. W. Ron Allen, Chairman, Self-Governance Communication and Education Tribal Consortium

Hon. Melanie Bahnke, President, Kawerak, Inc.

Hon. Michael Baines, Tribal Chairman, Sitka Tribe of Alaska

Hon. Linda Capps, Vice Chairman, Citizen Potawatomi Nation

Hon. Bill Follis, Chief, Modoc Tribe of Oklahoma

Hon. Norman Hildebrand, Jr., Second Chief, Wyandotte Nation of Oklahoma

Hon. George Thurman, Principal Chief, Sac and Fox Nation

The Self-Governance Tribes listed above want to thank you for holding the important Senate Committee on Indian Affairs' hearing, "Tribal Transportation: Pathways to Safer Roads in Indian Country," and to share our comments for the Committee hearing record. We are tribes who have assumed responsibility to administer and deliver federal programs and services to our members under the Self-Governance titles of the Indian Self-Determination and Education Assistance Act (ISDEAA).

We strongly agree with your opening statements and the witness testimony from the April 22, 2015, hearing that emphasized that safe and adequate roads and highways are critical to public safety, health, education, and commerce. On a daily basis, our tribal members and our communities experience the unacceptable road conditions that have made vehicle crashes the leading cause of death for Native American children and youth. We urge your leadership in working with us to make our roads a safer and more reliable component of the infrastructure network that will enable our communities to thrive.

We also express our strong support for the testimony of Santa Clara Pueblo Governor Michael Chavarria who urged Congress to fully extend the ISDEAA to the United States Department of Transportation (DOT). Our experiences demonstrate the effectiveness of the ISDEAA in promoting tribal self-determination and show that federal dollars have the greatest impact and efficiency when administered at the local level by the Tribes themselves. Accordingly, we fully support Governor Chavarria's request that the Committee and its members introduce and pass companion legislation to the Tribal Transportation Self-Governance Act of 2015, sponsored by Representatives DeFazio and Young in the House as H.R. 1068.

The language in H.R. 1068 has been endorsed by the National Congress of American Indians and the Intertribal Transportation Association. Its terms are also incor-



porated as a component of the tribal reauthorization proposal known as the “Tribal Transportation Unity Act.” The terms of H.R. 1068 have also enjoyed bipartisan support in the Congress. In 2012, the identical provisions were included as Section 1506 of H.R. 7, which was passed out of the House Transportation and Infrastructure Committee (but which was not acted upon by the full Congress).

Passage of the Tribal Transportation Self-Governance Act of 2015 would create in DOT a Tribal Self-Governance Program approximating Title V of ISDEAA, which applies to the Department of Health and Human Services. This would mean that tribes would be able to obtain all of their transportation funds (including not only their Tribal Transportation Program (TTP) funds, but also transit, Federal-aid and other DOT funds) under a DOT self-governance agreement. By authorizing Tribes to elect to use these ISDEAA funding agreements for all their transportation funds (and requiring DOT to respect that election), Congress would enable tribes to streamline administrative procedures associated with the various DOT programs and would facilitate a faster project delivery timeline. Getting safe and reliable transportation infrastructure on the ground and into operation faster and more cost effectively are objectives we all support.

Our experience with Self-Governance stands as strong testament to the expectation that by extending Self-Governance to DOT and placing more authority at the local tribal level, tribes will be best positioned to meet the safety and transportation infrastructure needs of our communities, our commerce and of the traveling public.

Thank you for your consideration.

**NAY'DINI'AA NA'**  
**(CHICKALOON VILLAGE)**  
**TRADITIONAL COUNCIL**

**A RESOLUTION IN SUPPORT OF THE TRIBAL TRANSPORTATION UNITY  
ACT (TTUA) SUMMARY/AMENDMENTS AND ADVOCATING FOR  
INCREASED FEDERAL INVESTMENT  
IN TRIBAL TRANSPORTATION INFRASTRUCTURE TO ENHANCE  
TRANSPORTATION  
SAFETY, EMPLOYMENT, ACCESS AND SYSTEM EFFECTIVENESS**

**Resolution 150415-02**

**WHEREAS, Chickaloon Village Traditional Council is an Indigenous Government with full power and authority to act for the Chickaloon Native Village, Chickaloon Traditional Village, and/or Chickaloon Village (Nay'dini'aa Na'); and**

**WHEREAS, Chickaloon Village is part of the Athabaskan Nation and is a distinct, independent political community, and as such is qualified and exercises powers of self-government by reason of its original tribal sovereignty as passed down from its ancestors since time immemorial; and nothing in this resolution shall be in conflict therewith; and**

**WHEREAS, Chickaloon Village is a Federally-recognized Tribal Government in Alaska (Federal Register, Volume 67, Number 134, Friday, July 12, 2002, Notices, page 46332), with full power and authority to negotiate with the Federal Government; and**

**WHEREAS, Chickaloon Village Traditional Council did not cede, terminate, extinguish, or relinquish their original, possessory and aboriginal rights; and**

**WHEREAS, Chickaloon Village Traditional Council is the governing body of Chickaloon Village as recognized by the Chickaloon tribal citizens; and has a responsibility to provide a government for the good health and welfare of its tribal citizens, address any needs in its community; and**

**Resolution Specifics:**

**WHEREAS, Chickaloon Village Traditional Council relies on a safe, efficient and dependable transportation system to support the health, economic development, social well-being of our tribal members and the general public, and**

- WHEREAS, the federal government has a trust responsibility and treaty obligations to assist tribes in developing and sustaining roads, bridges, pedestrian and bicycle paths, transit services and other transportation facilities in a state of good repair comparable to national standards, and**
- WHEREAS, in prior efforts to impact federal transportation legislation, tribal voices were not unified and resulted in Congress drafting language without the benefit of tribal input resulting in a less effective tribal transportation program and limited tribal governments' ability to provide a safe and reliable transportation system for their tribal communities and the traveling public; and**
- WHEREAS, Tribal leaders accompanied by tribal transportation technical staff attended a Tribal Transportation Unity Caucus in Denver, Colorado on February 25-27, 2014, to exchange perspectives on tribal needs and opportunities and to develop underlying positions for a coordinated strategy to engage Congress in addressing the United States' trust responsibility to the Indian people for transportation infrastructure investment and maintenance; and**
- WHEREAS, the Tribal Transportation Unity Caucus formed to promote unified, consensus positions of Indian tribes in advocating for a new highway bill that reflects tribal transportation system challenges and recognizes the accomplishments and capacity of tribes to deliver safe and reliable transportation and transit services to tribal citizens and surrounding communities; and**
- WHEREAS, the Tribal Transportation Unity Caucus meeting produced a document entitled "Tribal Transportation Unity Act Summary" that identifies recommendations for changes in the federal highway bill through a consensus process; and**
- WHEREAS, although tribal roads and transportation facilities comprise nearly 3% of the national transportation system, federal investment in those tribal facilities has remained at less than 1% of the national transportation system; and**
- WHEREAS, tribal communities suffer the impacts of motor vehicle fatalities and serious injuries at rates greatly exceeding national averages due to unsafe road conditions and underfunded tribal highway safety programs; and**

**WHEREAS, Tribal governments, as sovereign nations recognized in the United States Constitution, have obligations to deliver safe and reliable transportation networks and the Federal Government has trust and treaty responsibilities to provide sufficient funding to meet this obligation; and**

**WHEREAS, through TEA-21, SAFETEA-LU, ARRA and MAP-21, tribes have demonstrated their transportation needs and have proven their ability to effectively and efficiently deliver transportation programs for the benefit of tribal citizens and others in their community.**

**NOW THEREFORE BE IT RESOLVED, Chickaloon Village Traditional Council hereby supports the commitment expressed in the Tribal Transportation Unity Act Summary to engage in tribal transportation policy advocacy in the spirit of unity and mutual support and urges our Congressional delegation to support these recommendations; and**


**BE IT FURTHER RESOLVED, that the positions adopted in Denver have been made in the interest of unity and shall be interpreted and understood as promoting and advancing consensus positions shared by tribes nationally and to support coordinated advocacy before the United States Congress; and**

**BE IT FURTHER RESOLVED, Chickaloon Village Traditional Council hereby stands in unity with the Tribal Transportation Unity Caucus and supports the Tribal Transportation Unity Act Summary as adopted in Denver, Colorado on February 25-26 2014 and updated in 2015.**

**THEREFORE BE IT FINALLY RESOLVED, that Chickaloon Village Traditional Council authorizes and delegates authority to the Traditional Council Chairman, Vice-Chairman, and/or Traditional Chief, and/or the Executive Director to act on behalf of the Chickaloon Village Traditional Council for this project/program.**

**It is hereby certified that this resolution was duly considered and approved this 15th day of April, 2015, with a majority vote of 5 affirmative; 0 negative; 0 abstaining, and/or 3 absent votes.**

  
Rick Harrison,  
Vice-Chairman

  
Penny Westing,  
Secretary