

Legislative Proposal for **HONORING PROMISES TO NATIVE NATIONS ACT**

Congresswoman Deb Haaland and Senator Elizabeth Warren

The purpose of this proposed legislation is to implement the recommendations of *Broken Promises: Continuing Federal Funding Shortfall for Native Americans*, a report by the U.S. Commission on Civil Rights, and to advance other priorities that address chronic underfunding and barriers to sovereignty and self-governance in Indian Country.¹

On December 20, 2018, the U.S. Commission on Civil Rights released the *Broken Promises* report, which evaluates whether the federal government is meeting its trust and treaty responsibilities and otherwise honoring its promises. The Commission examined budgets and spending of federal agencies that administer American Indian, Alaska Native, and Native Hawaiian programs, including the Departments of Health and Human Services, Interior, Housing and Urban Development, Justice, and Education. *Broken Promises*, based on expert and public input, and extensive research and analysis, offers specific, actionable recommendations to Congress.

Congresswoman Deb Haaland and Senator Elizabeth Warren have taken the Commission's work as a call to congressional action and will introduce bicameral legislation to make progress toward enacting the *Broken Promises* report's recommendations, draw attention to the systematic inequities in Indian Country, and the federal government's failure to adequately fulfill the trust responsibility to Native peoples throughout history. Additionally, it will seek to strengthen the government-to-government relationship by giving Tribal governments a seat at the table in dealing with the federal government on Indian affairs.

Congresswoman Haaland and Senator Warren release this detailed proposal for legislation in order to provide an opportunity for Tribal Nations and citizens, experts, other stakeholders, and the public to offer input and suggestions on how to design the legislation in advance of its introduction. Congresswoman Haaland and Senator Warren invite and welcome feedback on the scope and aims of the future legislation, on the specific provisions proposed in this summary, and on additional provisions that should be considered for inclusion in the legislation.

It is time for Congress to take seriously the concerns highlighted in the *Broken Promises* report. Congresswoman Haaland and Senator Warren are proud to work together on legislation that makes progress toward honoring this nation's promises to Native peoples.

Honoring Promises to Native Nations Act

The opening sections of the proposed legislation will outline a set of proposed purposes, Congressional findings, and Sense of Congress provisions related to the Broken Promises report. These sections will also contain several provisions aimed at reaffirming the unique government-to-government relationship between the federal government and Tribal Nations and responding

¹ U.S. Commission on Civil Rights, *Broken Promises: Continuing Federal Funding Shortfall for Native Americans*, December 2018, <https://www.usccr.gov/pubs/2018/12-20-Broken-Promises.pdf> (hereinafter *Broken Promises*).

to the report’s conclusion that federal programs designed to promote the social and economic wellbeing of Tribal Nations and indigenous peoples of the United States remain chronically underfunded and often inefficiently structured. These shortcomings leave many of the federal government’s basic responsibilities to Native communities unmet, which contributes to persistent inequities. These programs are entailed by the federal government’s trust and treaty obligations, which are established in treaties signed by the United States—“the supreme law of the land”²—and enumerated in the United States Constitution, executive orders, Supreme Court precedent, and Federal regulations. As the *Broken Promises* report states: “The United States expects all nations to live up to their treaty obligations and it should live up to its own.”³

Section 1. Bill Name

Section 2. Purposes of legislation

This section of the proposed legislation briefly summarizes the purpose of the legislation by explaining that the bill aims to implement the recommendations made by the U.S. Commission on Civil Rights. We welcome input on these potential purposes of the legislation and suggestions for additional purposes. See Legislative Appendix A for possible purposes for the legislation.

Section 3. Findings

This section of the proposed legislation offers a number of Congressional findings based on the recommendations made in the *Broken Promises* report, giving Congressional affirmation to the research, work, and findings of the U.S. Commission on Civil Rights. We welcome input on findings that this legislation should make, especially those related to the *Broken Promises* report. See Legislative Appendix B for possible findings for the legislation.

Section 4. Sense of Congress

This section of the proposed legislation provides a Sense of Congress on a number of issues the *Broken Promises* report raises. The Sense of Congress provisions emphasize that Tribal Nations have a government-to-government relationship with the federal government, and that the Federal Government has historically failed to carry out the promises embedded in its trust and treaty obligations to American Indians and Alaska Natives (AI/ANs) and Tribal Nations. The provisions underscore that the loss of life, and the lands and natural resources ceded, by Tribal Nations are the basis for these obligations. And, they offer forward-looking optimism about the potential that can be realized when the Federal Government’s promises are fulfilled through legislation, as well as how Indian Country has long demonstrated strength, resilience, and revitalization. We welcome input on Sense of Congress provisions that this legislation should include, especially those related to the *Broken Promises* report. See Legislative Appendix C for possible Sense of Congress provisions.

Section 5. Budgetary Certainty

Although the United States has agreed to provide stable and adequate funding to Indian programs in order to fulfill its trust and treaty obligations, the reality is that the federal government’s budget process frequently creates extreme uncertainty for these programs. As the *Broken*

² United States Constitution, Article VI.

³ *Broken Promises*, p. 214.

Promises report finds, “Congress often provides funding for Native American programs in a manner that makes long-term planning and budgeting difficult for Tribal governments. For example, federal funding may be only available in a manner that is unpredictable and inconsistent from year to year”⁴—an unacceptable situation.

This section of the proposed legislation invites feedback on how best to achieve budgetary certainty and predictability in funding for Indian programs. Various options to this effect have been proposed or introduced in legislation. For example:

- Exemption from any future sequestration, which would help protect programs affecting Indian Country from needless, harmful, irrational, and across-the-board spending cuts. The *Broken Promises* report states that sequestration “has had devastating impacts on Native American programs.”⁵ Fulfillment of the United States’ trust and treaty obligations to Indian Country should not be held hostage by congressional dysfunction.
- Advance appropriations—appropriated funding for multiple years—so that a government shutdown does not imperil funding. The *Broken Promises* report quotes the National Congress of American Indians (NCAI) on advance appropriations in the context of the Indian Health Service (IHS):

Tribal health programs must make long-term decisions without the guarantee of sustained funding. Often programs must determine whether and how they can enter into contracts with outside vendors and suppliers, plan programmatic activities, or maintain current personnel. Advance appropriations would allow Indian health programs to effectively and efficiently manage budgets, coordinate care, and improve health quality outcomes for American Indian/Alaska Natives.⁶

- Mandatory funding, which would mean that meeting the federal government’s trust and treaty obligations would not be left to the whims of congressional appropriators. “Congress should provide direct, long-term funding to Tribes, analogous to the mandatory funding Congress provides to support Medicare, Social Security, and Medicaid,” the *Broken Promises* report recommends.⁷ This proposal invites input on different potential mechanisms for achieving mandatory funding.
- Inflation adjustments, to ensure that Native programs’ funding levels do not erode over time. As *Broken Promises* noted, “in the few cases where there have been increases” in Native programs’ funding levels, “they have barely kept up with inflation or have actually resulted in decreased spending power.”⁸ Different types of programs may require different types of inflation adjustments. For example, health care-related programs might be more appropriately adjusted to reflect changes in the medical care

⁴ *Broken Promises*, p. 206.

⁵ *Broken Promises*, p. 206.

⁶ *Broken Promises*, p. 70, quoting NCAI, *FY 2017 Indian Country Budget Request*, p. 58.

⁷ *Broken Promises*, p. 216.

⁸ *Broken Promises*, p. 4.

component of the consumer price index. This proposal invites input on the best ways to make these adjustments for various programs.

Section 6. Office of Management and Budget transparency

There is a lack of reliable data and transparency about how much federal funding is reaching Tribal Nations and American Indians and Alaska Natives. The *Broken Promises* report recommends that “Federal agencies should monitor, ensure, and make transparent to the American public that the proportion of their overall budgets devoted to Native Americans is commensurate with the needs of Native Americans and in furtherance of the federal trust obligation.”⁹

In order to provide this transparency, to ensure the President’s budget reflects the needs of programs affecting Indian Country, and to ensure administration of these programs reflects their needs and purposes, this section of the proposed legislation seeks input on a proposal to establish within the Office of Management and Budget (OMB) an Office of Tribal Affairs. This office could be charged with coordinating with OMB and the Executive Branch on matters of funding for federal programs and policy affecting AI/ANs. Among possible responsibilities for an Office of Tribal Affairs would be:

- Producing an annual “cross-cut” document with detailed information on precisely how much federal funding is reaching Tribal Nations, Tribal organizations, and urban Indian organizations;
- Producing, in consultation with Tribal Nations, a Tribal consultation policy for all of OMB; and
- Cataloguing state pass-throughs and presenting options for replacing them with direct funding to Tribal Nations. The *Broken Promises* report recommends “avoiding pass-through of funds via states.”¹⁰

See Legislative Appendix D for possible language for this provision.

The section also proposes requiring the Government Accountability Office (GAO) to audit the cross-cut documents to ensure an accurate accounting of Federal funding and to ensure that such funding is adequately responding to the needs of programs affecting Indian Country. See Legislative Appendix E for possible language for this provision. The proposal also welcomes input on possible alternative ways to achieve budget transparency.

Section 7. White House Council on Native American Affairs

In June 2013, President Obama established by Executive Order the White House Council on Native American Affairs, to “improve coordination of Federal programs and the use of resources available to Tribal communities.”¹¹ But because this institution is established by Executive Order, subsequent presidents are not legally required to continue it. NCAI recognized this when it adopted a resolution in 2016 “urg[ing] any future President of the United States to continue the

⁹ *Broken Promises*, p. 214.

¹⁰ *Broken Promises*, pp. 10, 216.

¹¹ Executive Order, “Establishing the White House Council on Native American Affairs,” June 26, 2013, <https://obamawhitehouse.archives.gov/the-press-office/2013/06/26/executive-order-establishing-white-house-council-native-american-affairs>.

White House Council on Native American Affairs, and to strengthen its role in coordination among the federal agencies to improve relations between Tribal Nations and the United States.”¹² These concerns about the stability of the Council without statutory authorization appear well-founded, as the Council has fallen “dormant” in recent years.¹³ This section proposes to codify this Council in statute in order to permanently establish it. This would ensure that Native American communities have a permanent, sustained voice in the White House. See Legislative Appendix F for possible language for this provision. This proposal also invites feedback on ways to strengthen the Council’s role, and possible new structures for it—for example, with a new chairperson who has Cabinet-level status, augmented Tribal representation on this body, and increasing the amount of Tribal consultation it conducts.

Section 8. Deputy Secretary for Tribal Nations in the Department of the Interior

The Department of the Interior—which includes the Bureau of Indian Affairs—has responsibility for a vast amount of federal policy that significantly affects Indian Country and tribal governance. The structure of the Department, however, does not necessarily prioritize self-determination, upholding treaty rights, and the federal trust responsibility as core missions of the Department. A resolution adopted by NCAI in 2018 “calls upon the Secretary of the Interior to establish the position of Deputy Secretary for Indian Affairs and to collect all of the Department’s Indian offices and Bureaus under the authority of the new Deputy Secretary.”¹⁴ This section proposes implementing this resolution by establishing a senior official in the Department of the Interior who reports directly to the Secretary and is equal in seniority with the current Deputy Secretary of the Interior. The proposed responsibilities of the Deputy Secretary for Tribal Nations would include:

- Honoring Tribal treaty responsibilities,
- Relationships and consultation with Tribal Nations,
- Supporting and strengthening Tribal self-determination,
- Promoting economic self-sufficiency, and
- Overseeing all Native affairs covered by the Department of the Interior.

The Deputy Secretary for Tribal Nations would ensure that the Interior Department’s policies, programs, and activities are oriented towards serving the needs and interests of Native American communities, including those that had previously been overlooked. See Legislative Appendix G for possible language for this provision.

We also invite input on other options for ensuring that the Department of the Interior and other agencies within the Executive Branch accord sufficient attention to Tribal policy and concerns—

¹² National Congress of American Indians, “Resolution #PHX-16-039: Support for Continuation of White House Council on Native American Affairs and Related Activities in Future Presidential Administrations.”

<http://www.ncai.org/resources/resolutions/support-for-continuation-of-white-house-council-on-native-american-affairs-and-related-activities-in-future-presidential-administrations>.

¹³ Indianz.com, “Indian Country experts warn of gridlock in troubled political climate,” Acee Agoyo, February 1, 2019, <https://www.indianz.com/News/2019/02/01/indian-country-experts-warn-of-gridlock.asp>.

¹⁴ NCAI resolution, “Urging the Department of the Interior to Establish a Position of Deputy Secretary for Indian Affairs and Establish a White House Council on Native Nations,” October 2018, <http://www.ncai.org/resources/resolutions/urging-the-department-of-the-interior-to-establish-a-position-of-deputy-secretary-for-indian-affairs-and-establish-a-white-house-council-on-native-nations>

for example, dedicated high-level positions within every Cabinet department, or a single Cabinet-level role or department with overarching responsibility for Native policy.

Section 9. Consultation by federal agencies

Too often, Native American voices and perspectives have been left out of federal decision-making. In 2000, President Bill Clinton issued Executive Order 13175,¹⁵ which mandated that Executive Branch agencies consult with Tribal Nations and establish policies for such consultation. But this executive order was never codified in law, and therefore meaningful Tribal consultation often does not occur with a set of uniform standards or does not occur at all. There has been Tribal support for codifying in statute the principles of this executive order.¹⁶ And there have been previous legislative proposals to require meaningful and timely Tribal consultation. Input is invited on how best to achieve this goal.

Section 10. Tribal self-governance and self-determination

The *Broken Promises* report recommends that the “federal government should provide sufficient funding, training, tools, and resources to tribal nations to provide their citizens the opportunity to exercise self-government and self-determination.”¹⁷ The bipartisan *PROGRESS for Indian Tribes Act*¹⁸—which has passed the Senate and has been introduced in the House by Congresswoman Haaland—would promote self-government and self-determination by improving the Indian Self-Determination and Education Assistance Act. This legislative proposal invites recommendations about additional steps to advance Tribal self-governance and self-determination.

Section 11. Interagency working group on data collection

The Commission underscores the “need for more accurate data collection for the Native American population,” including “disaggregation of data about Native American populations.”¹⁹ It cites Tribal advocates’ concerns about lack of quality data collection, which has broad implications for program funding.²⁰ The *Broken Promises* report recommends that Congress provide funding for a new interagency working group to “develop and improve systems and methodologies that federal government agencies could replicate for the collection of accurate and disaggregated data on small and hard to count populations,” like Native populations.²¹ We invite feedback on this recommendation, and particularly how it can be done in a way that fully respects indigenous data sovereignty.²²

¹⁵ Executive Order 13175, “Consultation and Coordination With Indian Tribal Governments,” November 6, 2000, <https://www.federalregister.gov/documents/2000/11/09/00-29003/consultation-and-coordination-with-indian-Tribal-governments>

¹⁶ NCAI resolution, “Call on Congress to Enact Legislation That Will Ensure Uniform, Effective and Meaningful Consultation with Indian Nations and Tribes Whenever Federal Activities Have Tribal Impacts,” October 2015, <http://www.ncai.org/resources/resolutions/call-on-congress-to-enact-legislation-that-will-ensure-uniform-effective-and-meaningful-consultation-with-indian-nations-and-Tribes-when-ever-federal-activities-have-Tribal-impacts>.

¹⁷ *Broken Promises*, pp. 9–10.

¹⁸ S. 209 / H.R. 2031.

¹⁹ *Broken Promises*, p. 18.

²⁰ *Broken Promises*, pp. 18–19.

²¹ *Broken Promises*, p. 217.

²² National Congress of American Indians Policy Research Center, “The State of Tribal Data Capacity in Indian Country: Key Findings from the Survey of Tribal Data Practices,” October 2018, http://www.ncai.org/policy-research-center/research-data/prc-publications/Tribal_Data_Capacity_Survey_FINAL_10_2018.pdf.

Section 12. Native Hawaiians

The *Broken Promises* report notes that Congress has “passed over 150 laws that promote the welfare of Native Hawaiians,”²³ and the report makes a number of recommendations pertaining to Native Hawaiians.

- The Commission cites evidence that “Native Hawaiians [a]re overrepresented in the criminal justice system” and that alternatives to incarceration are a worthwhile investment.²⁴ Input is welcome on how to reduce this overrepresentation.
- The Commission notes that the Native Hawaiian Health Care Systems Program is authorized with the aim to “raise the health status of Native Hawaiians to the highest possible health level.”²⁵ Yet some Native Hawaiian health indicators, like the HIV rate, are worse than for other American populations.²⁶ This proposal invites feedback on how to build upon the Native Hawaiian Health Care Improvement Act and fund the Native Hawaiian Health Care Systems Program, Papa Ola Lōkahi, and Native Hawaiian Health Centers, all of which *Broken Promises* discusses.²⁷
- This section of the legislation may implement a key recommendation of the *Broken Promises* report by proposing to increase funding for Native Hawaiian education programs.
- This proposal also considers how to address housing recommendations in the *Broken Promises* report by increasing funding for the Native Hawaiian Housing Block Grant Program.²⁸

Title I—Criminal Justice and Public Safety

The U.S. Commission on Civil Rights finds that, despite the fact that “Native Americans collectively suffer from one of the nation’s highest rates of crime and victimization” and that “the federal government has a trust responsibility to provide for public safety in Indian Country,” current funding “does not come close to meeting the public safety needs in Indian Country.”²⁹ This title of the proposed legislation contains several provisions aimed at increasing funding for key public safety programs in Indian Country in order to fully implement and expand these programs in communities where they are needed.

In response to the Commission’s findings, this section of the legislation would propose a number of additional investments to support Tribal law enforcement, Tribal courts, Tribal law enforcement facilities, data collection, and other programs to help keep Indian Country safe and to support Native communities:

- **Tribal justice systems.** The *Broken Promises* report highlights a GAO report that “found that funding for Tribal courts is often inadequate to allow them to carry out their

²³ *Broken Promises*, p. 5.

²⁴ *Broken Promises*, pp. 55–56.

²⁵ *Broken Promises*, p. 87, quoting 42 U.S.C. § 11702(a).

²⁶ *Broken Promises*, p. 88.

²⁷ *Broken Promises*, pp. 87–89.

²⁸ *Broken Promises*, p. 215.

²⁹ *Broken Promises*, p. 207.

judicial duties.”³⁰ It has been estimated that FY 2018 funding for Tribal courts was just 3% of the estimated need for full funding.³¹ We invite input on the best mechanisms, timelines, and funding levels to achieve full, guaranteed funding for Tribal justice systems, including Tribal court personnel and facilities, including those that have concurrent jurisdictions with states or counties under Public Law 280. We also welcome feedback on eliminating the competitive grant funding process, a recommendation made in the *Broken Promises* report. In addition, we welcome feedback about providing Tribal courts with funding for public defenders in Tribal criminal proceedings, and providing financial support for other innovations that Tribal governments might wish to pursue in their criminal justice systems.

- **Tribal law enforcement and facilities.** The *Broken Promises* report cites evidence that law enforcement staffing levels in Indian Country lag far behind county government law enforcement and that there is a tremendous need for more personnel.³² It also points out that there is a shortage of law enforcement facilities.³³ A number of funding streams—such as BIA and DOJ COPS—are crucial for these Tribal government functions. We invite input on the best mechanisms, timelines, and funding levels to achieve full, guaranteed and coordinated funding for Tribal law enforcement and facilities, including those that have concurrent jurisdictions with states or counties under Public Law 280.
- **Tiwahe Initiative.** This program was established in 2015 as “a comprehensive and integrated approach to address the interrelated problems of poverty, violence, and substance abuse faced by Indian communities.”³⁴ It cuts across a range of Tribal programs, from social services to recidivism reduction initiatives. The *Broken Promises* report highlights the Tiwahe Initiative as very successful³⁵ and recommends increasing funding to expand it to more communities.³⁶ But, this program is not authorized in statute, and the *Broken Promises* report notes that recent federal budget proposals have requested eliminating funding for it.³⁷ This proposal suggests permanently authorizing the Tiwahe Initiative in statute and providing robust, guaranteed funding so that it can reach as many Native communities as possible. See Legislative Appendix H for possible language.
- **Crime Data.** The Commission identifies the lack of crime and victimization data in Indian Country as a deficit that needs to be addressed,³⁸ and inadequate data sharing is also a problem. The Tribal Access Program for National Crime Information (TAP), which was begun in 2015 by the Department of Justice (DOJ), is a tool to facilitate the cross-jurisdictional sharing of crime data. It allows Tribal access to federally operated law enforcement information sharing systems. But TAP is not authorized in statute, and did not even have an appropriations line item until FY 2019. Hundreds of eligible Tribal Nations are still unable to access criminal justice data because of paltry funding. The

³⁰ *Broken Promises*, p. 51.

³¹ NCAI, FY 2020 Indian Country Budget Request, p. 33.

³² *Broken Promises*, pp. 48–49.

³³ *Broken Promises*, p. 53.

³⁴ Bureau of Indian Affairs, FY2015 Budget Justification, IA-ES-2,

https://www.doi.gov/sites/doi.gov/files/migrated/budget/appropriations/2015/upload/FY2015_IA_Greenbook.pdf.

³⁵ *Broken Promises*, p. 208.

³⁶ *Broken Promises*, p. 215.

³⁷ *Broken Promises*, p. 33.

³⁸ *Broken Promises*, p. 57.

Broken Promises report recommends funding for TAP to expand access.³⁹ This section of the proposed legislation proposes full, guaranteed funding sufficient to ensure that all eligible Tribal Nations can participate in TAP quickly and to ensure that TAP funding does not come at the expense of any other Tribal law enforcement funding streams. This proposal invites input on how to achieve those goals. See Legislative Appendix I for possible language. In addition, the *Bridging Agency Data Gaps and Ensuring Safety (BADGES) for Native Communities Act*,⁴⁰ authored by Senator Tom Udall and soon to be introduced in the House by Congresswoman Haaland, would improve database reporting, data sharing with Tribal authorities, and other processes to coordinate crime response. This proposal welcomes input on how to continue closing criminal justice data deficits.

- **Victim services.** The Crime Victims Fund provides funding for victim services. It is not financed by tax dollars but, rather, by penalties and fines for convicted federal offenders.⁴¹ The *Broken Promises* report recommends “ensur[ing] funds from the Crime Victims Fund are set aside annually to meet sufficiently the needs of Native American victims of crime,”⁴² noting that “Native Americans as a group suffer from one of the nation’s highest rates of crime victimization.”⁴³ Input is invited here on set-aside levels, types of authorization, funding structure (formula vs. competitive), and mechanisms for ensuring oversight of Department of Justice’s administration of the set-aside. We also welcome input on funding victim advocates and other court resources for urban locations with high populations of AI/ANs. This is based on an amendment that Congresswoman Haaland has previously introduced to aid in Native American victim services.
- **Domestic violence, sexual assault, and murdered and missing Native women.** The *Broken Promises* report notes the “disproportionate number of unresolved or unprosecuted cases involving Native American women who have been murdered or gone missing”⁴⁴ and calls out the likely undercounting of these cases.⁴⁵ This issue expands beyond reservations, pueblos, and villages and is also a problem in urban areas, as established in a study by the Urban Indian Health Institute.⁴⁶ Relatedly, the special domestic violence criminal jurisdiction recognized by the Violence Against Women Reauthorization Act of 2013 (VAWA) has been a success, yielding dozens of convictions but “not ... a single petition for habeas corpus review brought in federal court in an SDVCJ case.”⁴⁷ However, “additional resources are necessary in order for the benefits of the law to expand to more reservations.”⁴⁸ While unequivocally supporting reauthorization of VAWA and inclusion of meaningful Tribal provisions within it, Senator Warren and Representative Haaland seek input on broad legislative approaches

³⁹ *Broken Promises*, p. 215.

⁴⁰ S. 1853.

⁴¹ Department of Justice, Office of Justice Programs, Office for Victims of Crime, “About OVC: Crime Victims Fund,” <https://www.ovc.gov/about/victimsfund.html>

⁴² *Broken Promises*, p. 10.

⁴³ *Broken Promises*, p. 31.

⁴⁴ *Broken Promises*, p. 31.

⁴⁵ *Broken Promises*, pp. 58, 207.

⁴⁶ Urban Indian Health Institute, “Missing and Murdered Indigenous Women & Girls,” November 2018, <http://www.uihi.org/wp-content/uploads/2018/11/Missing-and-Murdered-Indigenous-Women-and-Girls-Report.pdf>.

⁴⁷ NCAI, “VAWA 2013’s Special Domestic Violence Criminal Jurisdiction Five-Year Report,” p. 1, http://www.ncai.org/resources/ncai-publications/SDVCJ_5_Year_Report.pdf.

⁴⁸ NCAI, “VAWA 2013’s Special Domestic Violence Criminal Jurisdiction Five-Year Report,” p. 1, http://www.ncai.org/resources/ncai-publications/SDVCJ_5_Year_Report.pdf.

to addressing the problems of domestic violence, sexual assault, and missing and murdered indigenous women (MMIW)—including in urban areas—as well as feedback on full and guaranteed funding for restoration of special Tribal criminal jurisdiction under VAWA, Indian Country Sexual Assault Clearinghouse,⁴⁹ and other relevant programs. Several pieces of legislation have been introduced in this Congress to address the MMIW crisis, including *Savanna’s Act*, the *Not Invisible Act* (the House companion of which Congresswoman Haaland sponsored), the *Justice for Native Survivors of Sexual Violence Act* (the House companion of which Congresswoman Haaland sponsored), and the *Native Youth and Tribal Officer Protection Act*, and this legislative proposal seeks to supplement the legislative progress that has already occurred.

Title II—Health Care

The U.S. Commission on Civil Rights’ Broken Promises report notes that “the federal trust responsibility establishes a responsibility to provide health care to Native Americans” but that the federal government has failed to honor these responsibilities. As a result, “vast health disparities” persist between AI/ANs and other populations.⁵⁰ The report specifically recommends “increased, non-discretionary, and advance appropriations for [the Indian Health Service]”⁵¹ as well as additional programs to address health issues in Indian Country. This title of the proposed legislation implements those recommendations by guaranteeing full funding to fulfill the federal government’s responsibilities to Indian Country in the critical area of health care. This section of the proposed legislation also proposes a number of additional provisions to safeguard health care programs in Indian Country not addressed by the Broken Promises report but identified through reviews of recommendations from advocates, Tribal leaders, and Native health experts.

“The Tribes in this country, the federally recognized American Indians and Alaska Natives, have the world’s first prepaid health plan,” said National Indian Health Board Chief Executive Officer Stacy Bohlen. “They paid for it with their lives, and their land, and their culture, and the forced abrogation of their future.”⁵² The *Broken Promises* report makes clear that the federal government has not provided sufficient health care in exchange for this prepayment. The Commission paid special attention to the per capita funding disparity between the Indian Health Service (IHS) and other federal health care programs. In response to the Commission’s findings and recommendations, this section of the legislation aims to establish full and guaranteed funding for health care for Native peoples.

- **Mandatory funding for Indian Health Service.** This section of the proposed legislation seeks input on mandatory funding for IHS, including inflation adjustment, adjustment for population growth, and coverage of contract support costs and leasing costs. The national Tribal Budget Formulation Workgroup observed that the federal government has failed to provide adequate budget increases for IHS over the last 14

⁴⁹ This has been funded by the DOJ Office on Violence Against Women. NCAI, FY 2020 Indian Country Budget Request, p. 37.

⁵⁰ *Broken Promises*, p. 208.

⁵¹ *Broken Promises*, p. 215.

⁵² New York Times, “Pain on the Reservation,” Annie Lowrey, July 12, 2013, <https://www.nytimes.com/2013/07/13/business/economy/us-budget-cuts-fall-heavily-on-american-indians.html>.

years, and as a result, “the per capita health funding and health disparities between AI/ANs and other populations have continued to widen, and the cost and amount of time required to close this funding disparity gap has grown.”⁵³ The Workgroup recommended fully funding IHS at \$36 billion phased in over 12 years. This proposal welcomes input on how best to achieve full, guaranteed funding for IHS. It also welcomes recommendations about other proposed mechanisms to provide guaranteed funding for health care for AI/ANs, including a model resembling existing entitlement programs. See Legislative Appendix J for a sketch of one possible approach to this issue.

- **Funding for full implementation of the Indian Health Care Improvement Act.** The *Broken Promises* report indicates that many of the IHCIA’s “provisions and authorities in the law remain unfunded.”⁵⁴ The national Tribal Budget Formulation Workgroup calls this “another broken promise to Indian Country.”⁵⁵ The still-unimplemented provisions and authorities range from demonstration programs for chronic health professions shortages, construction or expansion of urban facilities, prevention of and response to communicable and infectious diseases, and many others. Senator Warren and Representative Haaland welcome feedback on how to ensure implementation of these provisions and how to safeguard the IHCIA and the Affordable Care Act against legal challenges.
- **Special Diabetes Program for Indians.** The *Broken Promises* report notes that “Native Americans as a group suffer from the highest rate of diagnosed diabetes in the nation.”⁵⁶ The Special Diabetes Program for Indians (SDPI) “provides grant funding to support diabetes education, treatment, and prevention” and “has dramatically increased Native American access to diabetes clinics as well as nutrition services.”⁵⁷ There are existing legislative efforts to strengthen SDPI. While strongly supporting those efforts, this proposal invites suggestions about how best to provide full, guaranteed funding to SDPI, as well as on possible modifications making this funding eligible to administer via 638 contracting and compacting. See Legislative Appendix K for possible language.
- **Urban Indian Health Program.** The *Broken Promises* report explains that a large majority of AI/ANs (about 70%) live in urban areas and that “many of the recurring health problems faced by Native Americans in general are more acute for those living in urban areas.”⁵⁸ The report describes the important role that Urban Indian Health Programs provide, including “the only affordable, culturally competent health care services available in these urban areas.”⁵⁹ As such, Urban Indian Organizations require additional funding and support. There are existing legislative proposals to provide Urban Indian Health Programs 100% parity in federal reimbursement rates as for federally and Tribally operated IHS facilities. This proposal invites suggestions about how best to

⁵³ The National Tribal Budget Formulation Workgroup’s Recommendations on the Indian Health Service Fiscal Year 2020 Budget, April 2018, p. 10,

https://www.nihb.org/docs/04122018/265620_NIHB%20IHS%20Budget%20Book_WEB.pdf.

⁵⁴ *Broken Promises*, p. 93.

⁵⁵ The National Tribal Budget Formulation Workgroup’s Recommendations on the Indian Health Service Fiscal Year 2020 Budget, April 2018, p. 30,

https://www.nihb.org/docs/04122018/265620_NIHB%20IHS%20Budget%20Book_WEB.pdf.

⁵⁶ *Broken Promises*, p. 84.

⁵⁷ *Broken Promises*, p. 84.

⁵⁸ *Broken Promises*, p. 73.

⁵⁹ *Broken Promises*, p. 74, quoting HHS, IHS FY 2016 Congressional Justification, at CJ-125.

provide full, guaranteed funding to Urban Indian Health Programs, and additional steps to ensure that they are able to do their critical work—including improving conference by federal agencies with Urban Indian Health Programs.

- **Behavioral health.** The *Broken Promises* report finds that “there is a great need for access to services and adequate funding for quality behavioral health programs” to address issues like “psychological distress, mental health disorders, suicide, and alcohol and substance abuse.”⁶⁰ Importantly, “Tribal leaders consider this issue a significant priority,” and a funding “increase is needed so that Tribal communities can ‘develop innovative and culturally appropriate prevention programs that are so greatly needed in Tribal communities.’”⁶¹ The proposed legislation aims to provide full, guaranteed funding to address behavioral health. This includes but is not limited to the following:
 - *Opioids and substance use.* Senator Warren and Representative Haaland—along with Representative Elijah Cummings, Senator Udall, and more than 95 colleagues—have introduced the Comprehensive Addiction Resources Emergency (CARE) Act,⁶² the most ambitious legislation ever introduced in Congress to confront the opioid and substance use epidemic. The CARE Act would invest \$100 billion in federal funding over ten years to fight the opioid and substance use epidemic, including a total of more than \$800 million a year provided directly to Tribal governments and organizations.⁶³ This legislation is supported by a number of stakeholders. This proposal invites suggestions about how to build upon the CARE Act.
 - *Depression and suicide.* As the *Broken Promises* report notes that suicide rates among AI/ANs are extremely elevated, that depression can be tied to suicide, and that historical trauma is a contributing factor. The report also points out that “innovative Tribal-based approaches to address and combat the high suicide rates in Indian Country ... offer some encouragement amid the ongoing suicide crisis.”⁶⁴ Senator Warren and Representative Grijalva have introduced the Native American Suicide Prevention Act,⁶⁵ which Representative Haaland has cosponsored. This legislation, which has received wide support,⁶⁶ requires collaboration among states and Tribal Nations in the design and implementation

⁶⁰ *Broken Promises*, p. 76.

⁶¹ *Broken Promises*, p. 78.

⁶² S. 1365 / H.R. 2569.

⁶³ Office of Senator Elizabeth Warren, “Warren, Cummings, Udall, Haaland, and More Than 95 Colleagues Reintroduce the Bicameral, Comprehensive CARE Act to Combat the Opioid and Substance Use Epidemic in Native Communities,” press release, May 8, 2019, <https://www.warren.senate.gov/newsroom/press-releases/warren-cummings-udall-haaland-and-more-than-95-colleagues-reintroduce-the-bicameral-comprehensive-care-act-to-combat-the-opioid-and-substance-use-epidemic-in-native-communities>.

⁶⁴ *Broken Promises*, p. 80.

⁶⁵ H.R. 1191 / S. 467.

⁶⁶ Supporters of the legislation include the National Indian Health Board, the National Council of Urban Indian Health, the American Foundation for Suicide Prevention, Johns Hopkins Center for American Indian Health, the Association on American Indian Affairs, the Alaska Native Health Board, the Alaska Native Tribal Health Consortium, Tanana Chiefs Conference, United South and Eastern Tribes Sovereignty Protection Fund, Papa Ola Lōkahi, the Association For Behavioral Healthcare, and the Pueblo of Zuni. Office of Senator Elizabeth Warren, “Warren, Murkowski, Grijalva, & Cole Re-Introduce Bipartisan Bill to Address Suicide Crisis in Native Communities,” press release, February 13, 2019, <https://www.warren.senate.gov/newsroom/press-releases/warren-murkowski-grijalva-and-cole-re-introduce-bipartisan-bill-to-address-suicide-crisis-in-native-communities>.

of statewide suicide intervention and prevention strategies. But more needs to be done—from implementing the IHCIA demonstration projects for developing tele-mental health approaches to youth suicide, to adequately funding staffing for Tribal clinical and preventive services. This proposal welcomes input on how to address depression and suicide.

- *Child Abuse Prevention.* For decades, the Child Abuse Prevention and Treatment Act (CAPTA) has been the primary federal law addressing child abuse and neglect in the United States. Although it has been a crucial measure in protecting our nation’s children, it has not gone far enough to address the needs of AI/AN children. Despite specific provisions in CAPTA regarding Tribal eligibility for federal grants and emphasis on AI/AN child maltreatment issues, Tribal Nations still receive very little federal CAPTA funding. Additionally, research projects that focus specifically on unique Tribal community issues go largely unfunded. Senator Warren and Representative Grijalva, along with Representative Haaland, have introduced *AI/AN CAPTA*,⁶⁷ legislation to tackle these problems by increasing the Tribal set-aside for CAPTA funds, including Tribal Nations in the criteria for achieving equitable distribution of CAPTA funding, and requiring a GAO study on the problem. But far more needs to be done, and this proposal welcomes input on how to expand funding to prevent and treat child abuse and how best to build on *AI/AN CAPTA*.
- **Public health.** The *Broken Promises* report also addresses several public health issues. For example, it notes that “approximately thirteen percent of Native American homes lack safe water or adequate wastewater disposal facilities.”⁶⁸ Adopting minimum (and significantly increased) Tribal set-asides in the EPA’s Drinking Water State Revolving Fund and Clean Water State Revolving Fund, establishing a permanent and sufficient Tribal set-aside in the Rural Utilities Service Water & Waste Disposal Program, and boosting funding for the IHS Sanitation Facilities Construction Program are among the possible approaches to redressing this unmet obligation. Also in the public health space, Tribal epidemiology centers (TECs) provide epidemiology and public health functions critical to the delivery of Native health care services and conduct culturally-attuned research needed to identify root causes of health disparities experienced by AI/ANs.⁶⁹ This proposal requests guidance about the appropriate ways to provide full, guaranteed funding for the wide array of possible approaches to fulfill public health obligations in Indian Country.

Title III—Education

The U.S. Commission on Civil Rights finds that “the federal government has failed in its trust obligation to provide educational services that address the unique situation of Native American students.”⁷⁰ The Commission’s report recommends “full funding” for Bureau of Indian Education schools as well as increased funding for additional education programs in Indian

⁶⁷ S. 1329 / H.R. 2549.

⁶⁸ *Broken Promises*, p. 85.

⁶⁹ Tribal Epidemiology Centers, “About,” <https://Tribalepicenters.org/about/>.

⁷⁰ *Broken Promises*, p. 210.

Country. This section of the discussion draft proposes several provisions to implement these recommendations and ensure that education programs fully serve Indian Country.

In response to the Commission’s recommendation, this section of the legislation would propose additional investments in the Bureau of Indian Education schools.

- **Full funding for the operation of Bureau of Indian Education (BIE) schools.** BIE schools currently receive almost all of their funding from the federal government, which has not always kept pace with inflation. This section of the legislation proposes to make progress toward full funding for BIE schools in order to:
 - “[A]ttract, recruit, and retain teachers to come to and continue teaching in BIE schools,”⁷¹
 - Improve the salaries of BIE teachers,
 - Provide high-quality, culturally-responsive “professional development programs to enhance the skills of current” BIE teachers,⁷² and
 - Ensure “equitable and culturally responsive” school climates and educational opportunities for students.⁷³
- **Funding for BIE school construction, repair, renovation, and modernization.** This section of the legislation may provide significant funding for system-wide BIE school construction and repair to ensure that BIE can bring its “schools up to minimum standards of habitability for their students,”⁷⁴ and ensure that schools have the resources necessary to renovate and modernize learning environments with broadband and new education technologies.

While BIE schools are critically important to the education of children in Indian Country, the vast majority of Native students in the United States attend traditional public schools, and not all Tribal Nations have BIE schools. This section of the legislation would also propose additional investments in federal education programs that serve the unique needs of Native American students in elementary, secondary, and postsecondary education outside of BIE K-12 schools. Such investments may include:

- **Funding for Native languages.** This section of the legislation may provide increased funding for Native language education and revitalization efforts, the Department of Education’s Native American Language Program, and reauthorizing and expanding the Native American Language Act’s programs (e.g., Esther Martinez).
- **Funding for culturally inclusive education.** This section of the legislation may propose “grant funding to develop curricula and lesson guides that state and local school districts may ... choose to adopt to maximize instruction that includes non-derogatory, culturally inclusive discussion of Native American history and student experience.”⁷⁵
- **Increased funding for Alaska Native education programs.** This section of the legislation may implement a key recommendation of the Broken Promises report by proposing to increase funding for Alaska Native education grants.

⁷¹ *Broken Promises*, p. 216.

⁷² *Broken Promises*, p. 130.

⁷³ *Broken Promises*, p. 216.

⁷⁴ *Broken Promises*, p. 216.

⁷⁵ *Broken Promises*, p. 215.

- **Every Student Succeeds Act Implementation.** This section of the legislation may provide full funding for the implementation of the *Every Student Succeeds Act* provisions that pertain to BIE schools and Native student education programs, and ensure that Tribes and schools in Tribal communities have access to necessary technical assistance for effective implementation of the Act. The legislation may also address the lack of federal education data for Native students, and hold states and school districts more accountable to complying with the Act’s Tribal consultation requirements.
- **Increased funding for local Tribal education agencies and federal Tribal education offices.** This section of the legislation may provide additional funding for Tribal education agencies (Tribally-operated entities that implement federal education programs and advance self-governance) and increase funding for federal offices that focus on Native student education at BIE and the U.S. Department of Education.
- **Increased Johnson O’Malley funding.** This section of the legislation may make progress toward full funding for Johnson O’Malley (JOM) funding to improve the education of eligible Native students enrolled in public schools and to provide supplemental and specialized education services—including culturally relevant learning programs—to Native students. We invite feedback on how to ensure that JOM reaches all students who are Tribal citizens.
- **Mandatory and full funding for Tribal Colleges and Universities.** This section of the legislation may provide mandatory and full funding for Tribal Colleges and Universities, as defined in the Higher Education Act of 1965.

Title IV—Housing

The U.S. Commission on Civil Rights’ report emphasizes that the “housing crisis” in Indian Country has worsened in recent years.⁷⁶ As the Commission notes, providing housing opportunities for Native Americans is a trust obligation. The report recommends increased appropriations for programs that will help meet housing needs in Indian Country. This section of the proposed legislation implements those recommendations and includes a number of additional provisions that propose to address the housing crisis in Indian Country.

The *Broken Promises* report and its 2003 predecessor, *A Quiet Crisis*,⁷⁷ have both sounded the alarm about the housing crisis in Indian Country. The Department of Housing and Urban Development concluded in 2010 that 543,000 Native households were “living in conditions that are overcrowded, substandard, or cost-burdensome.”⁷⁸

- **Indian Housing Block Grant (IHBG) Program.** As “the largest source of federal funding for housing development and assistance in Indian Country,”⁷⁹ the IHBG is key to addressing this unmet federal obligation to provide housing to Native people. Senator

⁷⁶ *Broken Promises*, p. 211

⁷⁷ U.S. Commission on Civil Rights, *A Quiet Crisis: Federal Funding and Unmet Needs in Indian Country*, July 2003, <https://www.usccr.gov/pubs/na0703/na0204.pdf>.

⁷⁸ *Broken Promises*, p. 136, quoting Shaun Donovan, Secretary, U.S. Dep’t of Housing and Urban Development, testimony before the Senate Committee on Banking, Housing, and Urban Affairs and Committee on Indian Affairs, August 25, 2010, <https://www.gpo.gov/fdsys/pkg/CHRG-111shrg62798/html/CHRG-111shrg62798.htm>.

⁷⁹ *Broken Promises*, p. 139.

Warren has introduced the *American Housing and Economic Mobility Act*,⁸⁰ which would provide significantly increased IHBG funding, at a level of \$2.5 billion. The National American Indian Housing Council (NAIHC) has passed a resolution of support for the housing provisions of the *American Housing and Economic Mobility Act*.⁸¹ This proposal suggests that these programs be mandatory, fully funded, and inflation-adjusted. See Legislative Appendix L for possible language.

This proposal also invites feedback on increases and modifications to the following programs, as well as broader possible restructurings that would strengthen the IHBG.

- **Restoring authority to administer voucher programs.** Senator Warren’s American Housing and Economic Mobility Act would allow Tribal housing authorities to administer their own Section 8 voucher programs. We invite feedback on it for this proposal. See Legislative Appendix M for possible language.
- **Indian Community Development Block Grants (ICDBG).** This section proposes full, guaranteed funding for the ICDBG program in order to aid housing, infrastructure, and economic development. The *Broken Promises* report quotes NCAI as calling ICDBG “vital.”⁸²
- **Loan guarantees for Indian housing.** This section proposes expansion and guaranteed funding of two housing loan programs. The Section 184 Loan Guarantee program allows Tribes to “obtain federally guaranteed loans from private financial institutions” for housing and infrastructure.⁸³ NAIHC recommends simplifying and expanding access to the program.⁸⁴ The *Broken Promises* report also discusses the Title VI Loan Guarantee Program, “which provides federal guarantees for private market financing of housing development in Indian Country.”⁸⁵ This proposal solicits feedback on how best to fund, expand, and simplify those programs.
- **Direct housing loans for Native American veterans program.** The Department of Veteran Affairs Native American Direct Loan Program provides housing loans to Native veterans on reservations. This proposed legislation invites input on how to expand this program and other steps to provide housing for Native veterans.
- **Tribal HUD–VASH program.** There are existing legislative proposals to strengthen the Tribal HUD–VASH program, for rental assistance and other services to Native veterans who are homeless or at risk of becoming homelessness and who live in or near Indian areas. This section of the proposal welcomes feedback on how best to serve the housing needs of Native veterans.
- **Housing Improvement Program, Bureau of Indian Affairs.** This section of the proposed legislation asks for perspectives on how best to broaden the reach of the Bureau of Indian Affairs Housing Improvement Program (HIP), which expands the range of housing assistance that Tribes can provide.
- **Tribal Housing Habitability.** This section of the proposed legislation welcomes feedback on ways to improve housing conditions and prevent homelessness in Tribal

⁸⁰ S. 787.

⁸¹ <http://naihc.net/wp-content/uploads/2019/05/NAIHC-Resolution-2019-02-Support-AHEMA.pdf>.

⁸² *Broken Promises*, p. 145.

⁸³ *Broken Promises*, p. 146.

⁸⁴ National American Indian Housing Council’s Recommended Fiscal Year 2020 Funding Levels for Tribal Housing Programs.

⁸⁵ *Broken Promises*, p. 139.

communities. It also welcomes input on programs to cover asbestos and lead mitigation and remediation of methamphetamine contamination.

- **Coordinated Environmental Review Process Workgroup.** In 2015, in response to a recommendation from the Government Accountability Office aimed at improving agency environmental review requirements, the Coordinated Environmental Review Process Workgroup was formed. As the U.S. Commission on Civil Rights notes, a formal assessment of whether the Workgroup’s recommendations were adopted was never conducted.⁸⁶ This section of the proposed legislation suggests reviving the Workgroup in order to conduct that assessment and formulate a plan for implementing its recommendations. See Legislative Appendix N for possible language for this provision.

Title V—Economic Development

According to the U.S. Commission on Civil Rights, “economic development on Tribal lands is an essential component of the federal government’s trust responsibility to promote Tribal self-determination and to support Native American economic and social prosperity.”⁸⁷ However, severe barriers to economic development remain in Indian Country and the Commission concludes that “the federal government has failed to honor its trust responsibility” in this area.⁸⁸ Among these barriers are limited access to capital and entrepreneurship support, fractionated land interests, and inadequate physical infrastructure. For instance, according to the Commission, “Physical infrastructure projects in Indian Country have been consistently underfunded for decades, leaving the physical infrastructure needs unmet as compared with the rest of the nation.”⁸⁹ This section of the proposed legislation proposes provisions aimed at improving economic development in Indian Country, primarily by increasing funding for a set of existing economic development programs.

A major goal of this proposed legislation is to enhance economic development in Indian Country generally, and input on any options is welcome, but this proposed legislation especially welcomes feedback on the following ideas:

- **Native American Community Development Financial Institutions (CDFI) Assistance Program.** The *Broken Promises* report notes that limited access to capital in Indian Country is a major barrier to development,⁹⁰ and that Native CDFIs—which have the potential to help fill this gap—are underfunded.⁹¹ The Native American CDFI Assistance Program, which provides financial assistance, technical assistance, training, and outreach programs (primarily through CDFIs and Tribal organizations), has never been explicitly authorized by Congress. This section of the proposed legislation proposes graduated increases in funding for this program. This section also proposes making permanent the program’s waiver related to the non-federal match requirement. We welcome input on these ideas. See Legislative Appendix O for possible language for this provision.

⁸⁶ *Broken Promises*, p. 149 n.884.

⁸⁷ *Broken Promises*, p. 212

⁸⁸ *Broken Promises*, p. 212.

⁸⁹ *Broken Promises*, p. 165.

⁹⁰ *Broken Promises*, pp. 150, 200-202.

⁹¹ *Broken Promises*, pp. 213-214.

- **Native American Business Incubators Program.** This section of the proposed legislation seeks to provide conditions conducive to entrepreneurship in Indian Country. Senator Tom Udall introduced the *Native American Business Incubators Program Act*,⁹² which Senator Warren cosponsored and which Representative Haaland then introduced in the House. The legislation proposes the creation of a grant program to establish and maintain business incubators that specialize in assisting Native-owned small businesses. It has passed the Senate, which is a great development. This proposal seeks input on additional ways to assist Native small business enterprises.
- **Funding for Claims Resolution Act of 2010.** The *Broken Promises* report describes how fractionated land interests have “resulted in some lands being unusable.”⁹³ This section of the proposed legislation seeks input on the possibility of infusing the Trust Land Consolidation Fund with an additional \$1.9 billion for land buybacks under the *Cobell* settlement in order to allow further land consolidation. See Legislative Appendix P for draft language for this possible provision. We also welcome input on how best to empower Tribal governments in the land buyback process, so that the parcels they prioritize are the ones prioritized for purchase.
- **Roads and transportation.** According to the *Broken Promises* report, “Transportation infrastructure is critically important both to the ability of Tribal governments to provide citizens with essential services, and the overall economic development of Indian Country.”⁹⁴ Unfortunately, the tens of thousands of roads and trails serving Tribal communities “are some of the most ‘underdeveloped, unsafe, and poorly maintained road networks in the nation.’”⁹⁵ This section of the proposed legislation suggests providing full, guaranteed funding for several programs directed at this problem. For example, two programs the *Broken Promises* report discusses are the Tribal Transportation Program,⁹⁶ which administers roads owned by the BIA, Tribal Nations, states, and counties; and the Bureau of Indian Affairs Road Maintenance program,⁹⁷ which needs funding to clear its massive backlog and to provide ongoing maintenance. The Tribal Transportation Technical Assistance Program (TTAP), which provides training and technical assistance from experts who oversee and construct highways and roads, has been restructured without proper Tribal consultation, according to NCAI.⁹⁸ This proposal solicits Tribal input on how best to structure and expand TTAP. Input on the Tribal High Priority Projects Program—which supports Tribal Nations’ high-priority public transit projects—and how best to expand it (e.g., by ensuring that culverts are sufficiently funded as high-priority projects, or exploring the possibility of a separate culverts program) is also within the scope of this proposed legislation.
- **Public Transit.** The U.S. Commission on Civil Rights observes that a lack of public transportation is a product of the federal government’s broken promises.⁹⁹ This proposed legislation invites suggestions on how best to improve and expand the Tribal Transit

⁹² S. 294 / H.R. 1900.

⁹³ *Broken Promises*, p. 164.

⁹⁴ *Broken Promises*, p. 168.

⁹⁵ *Broken Promises*, p. 168, quoting NCAI, FY 2019 Budget Request, p. 126.

⁹⁶ *Broken Promises*, p. 170.

⁹⁷ *Broken Promises*, p. 170.

⁹⁸ NCAI, FY 2020 Budget Request, p. 127, <http://www.ncai.org/NCAI-FY20-BudgetReport-PREVIEW.pdf>.

⁹⁹ *Broken Promises*, p. 1.

Program, which enables Tribal Nations to undertake public transit projects for public transportation in rural Tribal communities, and other public transportation initiatives.

- **Expansion of E-rate.** The *Broken Promises* report cites the FCC’s Universal Service Program for Schools and Libraries (E-rate) as a way to improve Tribal internet connectivity. There are existing legislative proposals to expand E-rate and bring broadband access among Tribal libraries. This proposal seeks input on how best to continue the expansion of E-rate for Indian Country’s benefit, and how to increase broadband access generally.
- **Federal Communications Commission (FCC) Office of Native Affairs and Policy (ONAP).** The *Broken Promises* report points out that the FCC’s ONAP—which holds consultations, trainings, and technical assistance for inclusion in FCC regulatory matters—lacks adequate, fixed funding.¹⁰⁰ This proposed legislation welcomes perspectives on how best to augment ONAP.
- **Tribal Water Pollution Control.** The Clean Water Act (CWA) Section 106 grants fund water pollution control programs. But NCAI reports that the grant “allocation to Tribes has flat-lined and—in certain cases—decreased in some years,” which undermines “successful CWA implementation.”¹⁰¹ This proposed legislation seeks feedback on increasing the program’s Tribal set-aside to 20%, as recommended by NCAI.

¹⁰⁰ *Broken Promises*, pp. 175–176.

¹⁰¹ NCAI, FY 2020 Budget Request, p. 105, <http://www.ncai.org/NCAI-FY20-BudgetReport-PREVIEW.pdf>.