The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
204 U.S. Capitol Building
Washington, DC 20515

The Honorable Kevin McCarthy
Minority Leader
U.S. House of Representatives
H-204 U.S. Capitol Building
Washington, DC 20515

Dear Speaker Pelosi and Minority Leader McCarthy:

This letter is on behalf of the undersigned national American Indian and Alaska Native organizations, which collectively serve all 574 federally-recognized American Indian and Alaska Native tribal nations. The recommendations outlined in this letter encompass critical funding and policy concerns to help protect and prepare American Indian and Alaska Native communities to effectively respond to the current 2019 novel coronavirus (COVID-19) pandemic.

As the urgency, infection rate, and death toll of the COVID-19 pandemic intensifies, it has become increasingly clear that Indian Country needs significantly more resources to protect and preserve human life and address the grave economic impacts tribal nations face, as they close government operations and tribal enterprises to protect the health of their citizens and surrounding communities. American Indian and Alaska Native communities are disproportionately impacted by the health conditions that the Centers for Disease Control and Prevention (CDC) notes increase risk for a more serious COVID-19 illness, including respiratory illnesses, diabetes, and other health conditions. We urge you to include the following requests as you work on a third supplemental package to stem the COVID-19 pandemic. In addition to the specific funding and policy requests outlined below, tribal nations are strongly urging maximum flexibility in the use of new and existing funds to be able to comprehensively address COVID-19 response efforts.

HEALTHCARE

1. **Provide $200 million in funding for IHS Facilities Account:**

Background: IHS and Tribes need an additional $200 million in funding for facilities construction to help address the COVID-19 emergency. Many IHS and Tribal hospitals and clinics already have capacity limitations such as a shortage of beds in intensive care units (ICUs), or lack inpatient facilities altogether. Many American Indian and Alaska Native households already experience significant overcrowding, which is likely to be exacerbated with the influx of Tribal citizens returning home during this crisis. Given the significant resource shortages facing the Indian health system, there is significant concern that without immediate relief to bolster hospital capacity, the Indian health system will buckle under this emergency. IHS needs flexible funding to increase capacity for shelters of opportunity from medical tents to gymnasiums, beds, triage units, and other priorities. There is urgent need to:

- Increase capacity for shelters of opportunity;
- Build auxiliary facilities and nonmedical facilities for social isolation;
- Bolster hospital capacity;
- Build temporary lodging for healthcare providers; and

- Improve sanitation infrastructure to address increased demand and use of water, sewer, and waste systems

2. Provide $1.1 billion in funding for IHS Services Account:

Background: We are appreciative of the $64 million included in the House-passed H.R. 6201. However, Indian Country needs an additional $1.1 billion in funding for the IHS Services Account. This funding is critical to meet increased demand for health services and education, recruit providers, increase testing capacity, address the needs of urban Indian organizations (UIOs), secure medical supplies, and other priorities. The Indian health system already experiences a roughly 25% vacancy rate for providers including physicians, nurses, nurse practitioners, and other provider types. Despite the urgent need for more providers, IHS and Tribal sites have actually *lost* nearly 200 Commission Corps to deployments in response to the COVID-19 emergency.

This has left the Indian health system even less prepared to meet the influx of need as more and more Tribal citizens elect to come home to be with family during this emergency. IHS and Tribal sites are already reporting critical shortages for medical supplies such as personal protective equipment (PPE), respirators, extracorporeal oxygenation tables, and ventilators. In fact, as IHS and Tribal facilities deplete PPEs and further lose Commission Corps officers to deployments, midlevel providers such as Community Health Representatives and Community Health Aides will be forced to carry a larger burden to meet patient demand. In addition, UIOs are already experiencing immediate needs for critical funding. For instance, the UIO in Seattle, WA, is projecting a monthly loss of $734,922 during the COVID-19 pandemic. The UIO in San Jose, CA, has had COVID-19 cases increase more than threefold over the past few days. The $1.1 billion will provide significant relief and allow the Indian health system to prepare and respond to the COVID-19 emergency by:

- Significantly expanding availability of health services within IHS, Tribal, and urban Indian hospitals, clinics, and health programs;
- Bolstering staffing and personnel capacity by hiring new Community Health Representatives and/or Public Health Nurses;
- Boosting COVID-19 disease surveillance by funding technical assistance and training efforts to improve disease reporting and data sharing between Tribal Epidemiology Centers and IHS and Tribal facilities; and
- Providing culturally appropriate mental health care for Tribal citizens experiencing depression or other mental health symptoms as result of COVID-19 isolation

3. Provide $964 million in funding for Purchased/Referred Care (PRC):

Background: In light of the COVID-19 emergency, IHS and Tribal sites are quickly depleting their PRC funds to connect patients with care. There is an immediate need for an additional $964 million for PRC services. Even the most conservative models have predicted that we have yet to reach the peak in terms of the number of COVID-19 cases nationwide, and that the bell curve is continuing to expand. As the number of cases increase exponentially, it will impose immense

pressures on the chronically underfunded and under-resourced Indian health system. As a result, use of PRC dollars to purchase primary and specialty care outside the Indian health system will become especially critical. Because IHS and Tribal sites already have limited intensive care unit capacity, additional PRC dollars will help pay for inpatient and outpatient care, ambulatory care, transportation for rural and remote patients, medical support services like COVID-19 lab testing and pharmacy services, and other needs.

4. **Authorize Medicaid Reimbursements for Qualified Indian Health Provider Services and urban Indian programs:**

Background: IHS and Tribal facilities are experiencing significant economic disruption as a result of the COVID-19 pandemic. This has intensified the need to maximize 3rd party reimbursements into the Indian health system. Currently, Indian health care providers only receive reimbursement for health services that are authorized for all providers in a state. Thus, we request that Congress authorize Indian health care providers across all states to receive Medicaid reimbursement for all mandatory and optional services described as "medical assistance" under Medicaid and specified services authorized under the Indian Health Care Improvement Act (IHCIA)—referred to as Qualified Indian Provider Services—when delivered to Medicaid-eligible American Indians and Alaska Natives.

Legislative Text:
Amend subsection 1905(a)(2) by striking the "and" before subparagraph (C) and inserting the following:

"and (D) Qualified Indian Provider Services (as defined in subsection (l)(4) of this section) and any other ambulatory services offered by an Indian Health Care Provider and which are otherwise included in the plan."

Add a new subsection 1905(l)(4) as follows:

"(A)(i) The term "Qualified Indian Provider Services" means all services described in paragraphs (1) through (29) of section 1905(a) and all services by the provider types described in the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) sections 1616, 1616l, , 1621c, 1621d, 1621h, , 1665a, 1665m, when furnished by an Indian Health Care Provider (as defined in (B) of this subsection) to an individual as a patient of the Indian Health Care Provider who is eligible to receive services under the State plan and is eligible to receive services from the Indian Health Service."

"(ii) Notwithstanding any other provision of law, Qualified Indian Provider Services may be provided by authorized non-physician practitioners working within the scope of their license, certification, or authorized practice under federal, State, or tribal law." [Provision might be best placed in an alternative section.]

For urban Indian FMAP:

SEC. 1. EXTENSION OF FULL FEDERAL MEDICAL ASSISTANCE PERCENTAGE TO

URBAN INDIAN ORGANIZATIONS.
Section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended by striking "Indian Health Care Improvement Act)" and inserting "Indian Health Care Improvement Act) or through an Urban Indian organization (as defined in section 4 of the Indian Health Care Improvement Act) pursuant to a grant or contract with the Indian Health Service under title V of the Indian Health Care Improvement Act".

5. **Ensure Reimbursements for services furnished by Indian Health Care Providers outside of an IHS or Tribal Facility:**

Background: The COVID-19 emergency has created significant need to meet Tribal citizens where they are at, and provide more nimble delivery of health services outside the traditional "four walls" of a clinic or hospital. Many IHS and Tribal sites are already having to set up mobile units and outdoor triage centers, and provide more outpatient care. Without the ability to bill for these services, it will create significant financial strain on the Indian health system. Ensuring reimbursements for IHS and Tribal providers follow wherever the service is delivered will improve the timeliness and accessibility of care during the COVID-19 emergency, and help bolster desperately needed financial resources.

Legislative Text:
Section 1905(a)(9) of the Social Security Act (42 U.S.C.1396d(a)(9)) is amended by striking the semicolon and inserting the following: '', and including such services furnished outside the clinic by personnel of a clinic operated by a tribe, tribal organization, or urban Indian organization (as such terms are defined in section 4 of the Indian Health Care Improvement Act) operating pursuant to a grant or contract with the Indian Health Service under title V of such Act.

ECONOMIC DEVELOPMENT

1. **Create the Coronavirus Tribal Relief Fund and provide $20 billion in relief funds:**

Background: Indian Country is dependent on tribal commercial enterprises for revenues to fund essential government services because tribal nations have a limited and often unavailable tax base. As a result, the pandemic's devastating effects on all industries have disproportionately threatened the solvency of these tribal sources of government revenues. It is critical that our enterprises are eligible for emergency relief, access to capital, and loans to address this fiscal crisis.

Legislative Language:
$20,000,000,000 for the Coronavirus Tribal Relief Fund within Department of the Treasury, which shall be distributed as grants by the Secretary of the Treasury to Indian tribes or tribally-owned entities. Allocation and distribution of such grant funding shall be at the Secretary's discretion but shall be based upon lost revenues, as demonstrated by revenues received in the aggregate in fiscal year 2019 by the tribe or tribally-owned entity. The Secretary shall award grants to eligible entities until such amounts of the Fund are expended. For the purposes of this Act, Indian tribe has the meaning given the term in section 4 of the Indian Self-Determination

and Education Assistance Act (25 U.S.C. 5304).

2. **Provide $2 billion and additional flexibility for the Bureau of Indian Affairs Indian Loan Guarantee Program:**

Background: Indian Country needs additional resources to address the emerging credit crisis that the federal government is already dealing with in the markets. Indian Country already endures significant access to capital and credit issues, which will be made far worse by the economic impacts of the COVID-19 pandemic. The Office of Indian Energy and Economic Development within the Department of the Interior should have its available guarantees increased with the federal government building the allowable loss reserves to offset underwriting concerns. We recommend increasing the loan fund amount available to $2 billion from the currently underfunded amount of $8.5 million. This would accommodate approximately $15 billion in loan availability with an additional $400 million, or a 20 percent loss reserve, of the allocation set aside by the agency for loss reserves to accommodate the difficult environment. Greater underwriting and programmatic flexibility should be granted to ensure Indian Country is able to access credit to address needs arising from the COVID-19 pandemic, including the closure of tribal enterprises. Congress should waive any industry-related restrictions to accessing these resources.

Legislative Text:
For the cost of guaranteed loans and insured loans, $2,000,000,000, as authorized by the Indian Financing Act of 1974, provided that the Secretary shall waive any industry-related restrictions and provide maximum flexibility in the administration of the program.

3. **Provide Tribes the same access to tax-exempt bond financing as state and local governments to enable needed access to capital markets:**

Background: State and local governments can issue tax-exempt bond debt for commercial activity to raise revenue which is critical in times of fiscal crisis. Presently, tribal governments are permitted to only issue bonds for essential government functions and not commercial activity. This restricts economic stimulus and limits the bond market access for tribal governments at a period when the solvency of their enterprises—which supply government revenue—are threatened by the fiscal crisis generated by COVID-19. Treating tribes as states under the Tax Code would open up an important capital market available to other governments.

Legislative Text:
SEC. 3. Treatment of Indian tribes as States with respect to bond issuance.
(a) IN GENERAL.—Subsection (c) of section 7871 of the Internal Revenue Code of 1986 (relating to Indian tribal governments treated as States for certain purposes) is amended to read as follows:
"(c) SPECIAL RULES FOR TAX-EXEMPT BONDS.—In applying section 146 to bonds issued by Indian tribal governments (or subdivisions thereof) the Secretary of the Treasury shall annually—
"(1) establish a national bond volume cap based on the greater of—
"(A) the State population formula approach in section 146(d)(1)(A)

(using national tribal population estimates supplied annually by the Department of the Interior in consultation with the Census Bureau), and

"(B) the minimum State ceiling amount in section 146(d)(1)(B) (as adjusted in accordance with the cost of living provision in section 146(d)(2)), and

"(2) allocate such national bond volume cap among all Indian tribal governments seeking such an allocation in a particular year under regulations prescribed by the Secretary.".

(b) REPEAL OF ESSENTIAL GOVERNMENTAL FUNCTION REQUIREMENTS.—Section 7871 of such Code is further amended by striking subsections (b) and (e).

(c) CONFORMING AMENDMENT.—Subparagraph (B) of section 45(c)(9) of such Code is amended to read as follows:

"(B) INDIAN TRIBE.—For purposes of this paragraph, the term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.".

(d) EFFECTIVE DATE.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to obligations issued in calendar years beginning after the date of the enactment of this Act.

(2) SUBSECTION (b).—The repeals made by subsection (b) shall apply to transactions after, and obligations issued in calendar years beginning after, the date of the enactment of this Act.

4. **Increase authorization for the Tribal Energy Loan Guarantee Program and waive regulatory fees associated with tribal projects:**

Background: The current loan fund of $2 billion is going unused because the steep fees only make very large loans possible and the application process is difficult to navigate. We would request increasing the amount to $15 billion or half the total market and a waiver of fees associated with any tribal project. It is important that these loans become effective and less cumbersome for the distressed tribal energy market.

Legislative Text:
Amend 25 U.S.C. 3502(c)(4) to read as follows:(4) The aggregate outstanding amount guaranteed by the Secretary of Energy at any time under this subsection shall not exceed $15,000,000,000.

TRIBAL GOVERNANCE

1. **Provide $950 million for Bureau of Indian Affairs Tribal Priority Allocations funding:**

Background: Like all governments across the United States, tribal nations are working diligently to immediately respond to the COVID-19 pandemic. The response is ongoing, and the costs

associated with it will continue rise. Tribal nations provide services and make decisions that impact public safety, social services, education, emergency response, tribal economies, and the daily lives of tribal citizens and others living in and around tribal communities. Tribal nations are requesting $950 million in funding for Indian Affairs Tribal Priority Allocations (TPA) and TPA-like allocations (e.g., Criminal Investigations & Police Services & Detention/Corrections) to fund essential tribal services. Responding to this pandemic is cost-intensive, and it impacts all aspects of tribal governance and life in tribal communities. Congress must ensure tribal nations have additional funding for COVID-19 response and recovery activities.

Legislative Text:
For expenses necessary for the operation of Indian programs, as authorized by law, including the Snyder Act of November 2, 1921 (25 U.S.C. 13), the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 5301 et seq.), $950,000,000 for tribal priority allocations; provided that federally recognized Indian tribes and tribal organizations of federally recognized Indian tribes may use their tribal priority allocations for unmet costs related to COVID-19 response and recovery.

2. **Provide an additional $100 million for the Food Distribution Program on Indian Reservations (FDPIR) and waive restrictions:**

Background*:* As businesses close and people are left out of work, often in areas of high unemployment and persistent poverty, the FDPIR program provides critical assistance for food insecure families in Indian Country. Additional funding will ensure food can be purchased for the anticipated increases to participation, as well as the ability to make updates to infrastructure, facility improvements, and equipment upgrades to store food supplies for this demand and to account for potential food supply chain disruption. Further, a waiver of restrictions is needed to acquire and store food supplies to address the increase in demand and disruptions in the food supply chain for tribal communities.

Legislative Text:
ADDITIONAL FOOD FOR THE FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS.

a. *Food Distribution Program on Indian Reservations.--For the costs relating to additional food purchases associated with the Food Distribution Program on Indian Reservations, as established under section 4(b) of the Food and Nutrition Act of 2008 (7 U.S.C. 2013(b)), the Secretary shall make available $50,000,000: Provided, That administrative cost-sharing requirements are not applicable to funds provided in accordance with this provision.*

EXPANSION OF THE FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS.

a. *Food Distribution Program on Indian Reservations.--For the costs relating to facility improvements and equipment upgrades associated with the Food Distribution Program on Indian Reservations, as established under section 4(b) of the Food and Nutrition Act of 2008 (7 U.S.C. 2013(b)), the Secretary shall make available $50,000,000: Provided, That administrative cost-sharing requirements are not applicable to funds provided in accordance with this provision.*

EMERGENCY PURCHASING AUTHORITY AND WAIVERS OF RESTRICTIONS ON ELIGIBILITY FOR FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS

a. *Food Distribution Program on Indian Reservations.-- Beginning at the start of the month after the date of passage of this Act, all tribal organizations and state agencies that operate the Food Distribution Program on Indian Reservations, as established under section 4(b) of the Food and Nutrition Act of 2008 (7 U.S.C. 2013(b)) have the authority to purchase food locally and regionally that are nutritionally equivalent to foods provided and authorized for the program;*
b. *Administrative Flexibility for Food Delivery.-- Beginning at the start of the month after the date of passage of this Act, Tribal organizations and state agencies have the discretion and flexibility to expand service methods and service areas to be responsive to need.*
c. *Temporary Waiver of SNAP/FDPIR Restrictions.-- Beginning at the start of the month after the date of passage of this Act, the prohibition on simultaneous usage of the Supplemental Nutrition Assistance Program and the Food Distribution Program on Indian Reservations in 7 U.S.C. 2013(b)(2)(c) is waived for a period of at least 6 months, only to end after consultation with tribal governments to review any lasting economic impacts.*

3. Provide an additional $200 million for Indian Community Development Block Grant Funding:

Background: Housing and community development funds are spent directly in tribal communities and often bring in other services such as tribal construction companies and suppliers needed to offset the anticipated unemployment, as well as mitigate health issues that will arise from closed and vulnerable tribal communities that have high levels of interaction. We propose increasing funding for housing for community development efforts. Flexible funding should be provided in the amount of an additional $200 million for community facilities (with $2 million in administrative expense) with a preference for building or purchasing health and related care facilities needed for immediate use to respond to the COVID-19 pandemic.

Legislative Text:
$200,000,000 shall be available for grants to Indian tribes for carrying out the Indian Community Development Block Grant program under title I of the Housing and Community Development Act of 1974, notwithstanding section 106(a)(1) of such Act, and, notwithstanding any other provision of law [including section 203 of this Act (HR 1875)]: Provided, that the Secretary shall obligate this funding by September 30, 2020: Provided, that the Secretary shall give priority to those projects that would respond to emergencies that constitute imminent threats to health and safety: Provided further, that new construction is an eligible activity: Provided further, that not to exceed 20 percent of any grant made with funds appropriated under this paragraph shall be expended for planning and management development and administration.

4. Provide $20 million in funding for BIA's Welfare Assistance Fund:

Background: Tribal nations are requesting increased funding to support tribal efforts to ensure Tribal children in out-of-home care or at risk of out-of-home care and their caregivers have sufficient support. The funding will support emergency services such as respite care to foster care and relative caregivers; case management services to support medical and social services coordination for children at risk of placement in out-of-home care and those currently in out-of-home care; emergency placement services to children who are displaced from their foster care, relative care, or group care placement because of medical issues related to COVID-19 health concerns; and temporary income assistance to foster care or relative care providers who cannot work due to COVID-19 health concerns and are providing care to foster children in their home.

Thank you for your consideration of the recommendations outlined in this letter. We look forward to working with you to ensure that Indian Country's concerns and priorities are comprehensively addressed, as we respond to the COVID-19 emergency.

Sincerely,

National Congress of American Indians
National Indian Health Board
National Council of Urban Indian Health