S. HRG. 107–98

CONFIRMATION OF NEAL A. McCALEB

HEARING

BEFORE THE

COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

ONE HUNDRED SEVENTH CONGRESS

FIRST SESSION

ON

NEAL A. McCALEB TO BE ASSISTANT SECRETARY FOR INDIAN AFFAIRS

JUNE 13, 2001
WASHINGTON, DC

U.S. GOVERNMENT PRINTING OFFICE
73–434 CC WASHINGTON : 2001

For sale by the U.S. Government Printing Office
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402

COMMITTEE ON INDIAN AFFAIRS

DANIEL K. INOUYE, Hawaii, *Chairman*
BEN NIGHTHORSE CAMPBELL, Colorado, *Vice Chairman*

FRANK MURKOWSKI, Alaska
JOHN McCAIN, Arizona,
PETE V. DOMENICI, New Mexico
CRAIG THOMAS, Wyoming
ORRIN G. HATCH, Utah
JAMES M. INHOFE, Oklahoma

KENT CONRAD, North Dakota
HARRY REID, Nevada
DANIEL K. AKAKA, Hawaii
PAUL WELLSTONE, Minnesota
BYRON L. DORGAN, North Dakota
TIM JOHNSON, South Dakota
MARIA CANTWELL, Washington

PATRICIA M. ZELL, *Majority Staff Director/Chief Counsel*
PAUL MOOREHEAD, *Minority Staff Director/Chief Counsel*

CONTENTS

	Page
Statements:	
Akaka, Hon. Daniel K., U.S. Senator from Hawaii	3
Anoatubby, Bill, Governor, Chickasaw Nation, Ada, OK	8
Campbell, Hon. Ben Nighthorse, U.S. Senator from Colorado, vice chairman, Committee on Indian Affairs	2
Conrad, Hon. Kent, U.S. Senator from North Dakota	5
Domenici, Hon. Pete V., U.S. Senator from New Mexico	14
Dorgan, Hon. Byron L., U.S. Senator from North Dakota	7
Inhofe, Hon. James M., U.S. Senator from Oklahoma	4
Inouye, Hon. Daniel K., U.S. Senator from Hawaii, chairman, Committee on Indian Affairs	1
McCain, Hon. John, U.S. Senator from Arizona	6
McCaleb, Neal A., nominee for Assistant Secretary for Indian Affairs, Department of the Interior	11
Nickles, Don, U.S. Senator from Oklahoma	9
Tillman, Jr., Charles, principal chief, Osage Nation, Oklahoma	10
APPENDIX	
Prepared statements:	
Anoatubby, Bill	23
Johnson, Hon. Tim, U.S. Senator from Arizona	24
McCaleb, Neal A. (with attachments, and reponses to questions)	26
Thomas, Edward K., president, Central Council, Tlingit and Haida Indian Tribes, Alaska	25
Additional material submitted for the record:	
Letters of support for Neal A. McCaleb to be Assistant Secretary for Indian Affairs	

CONFIRMATION OF NEAL A. McCALEB AS ASSISTANT SECRETARY FOR INDIAN AFFAIRS

WEDNESDAY, JUNE 13, 2001

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

The committee met, pursuant to notice, at 9:25 a.m. in room 485, Senate Russell Building, Hon. Daniel K. Inouye (chairman of the committee) presiding.

Present: Senators Inouye, Campbell, Akaka, Conrad, Dorgan, McCain, and Domenici.

STATEMENT OF HON. DANIEL K. INOUYE, U.S. SENATOR FROM HAWAII, CHAIRMAN, COMMITTEE ON INDIAN AFFAIRS

The CHAIRMAN. Good morning. The Committee on Indian Affairs this morning gathers to receive testimony on the President's nomination of Neal McCaleb to serve as Assistant Secretary of Indian Affairs in the Department of the Interior.

As those who are regular observers of the committee know, the Committee on Indian Affairs has traditionally carried on its responsibilities on a bipartisan basis. I believe, without exception, the committee addresses the challenges confronting Indian country in a nonpartisan fashion.

So it is that while there have been some changes in the Senate in recent days, this committee continues its tradition of a chairman and vice chairman who share the responsibility of conducting hearings and carrying on the business of the committee, as we do this morning.

With the changes that have come about in the Senate, I also have the responsibility of chairing a hearing of the Subcommittee on Defense Appropriations this morning. So, unfortunately, I will have to leave this hearing, upon conclusion of my opening statement.

As originally planned several weeks ago, Senator Campbell will chair this important hearing today, and we will make a report of the proceedings of today's hearings available to those members of the committee who are not able to attend this hearing, because of prior commitments.

But first, I want to welcome Neal McCaleb, and to assure him that we look forward to working with you on a bipartisan basis, for I believe you know that matters of Indian affairs are not defined along political lines.

Further and more importantly, I believe that we share a common objective, and we serve a common cause, which is to each, in our own way and from our respective positions, do our best to improve contemporary conditions in Indian country, and to foster the potential for a promising future for Native America.

Appearing before this committee in February, the Interior Secretary, Ms. Norton, pledged that her administration of the department would be guided by a policy of and a commitment to consultation with tribal governments.

I assume that consultation will also be the touchstone of the Office of the Assistant Secretary for Indian Affairs, as you work with tribal governments in a partnership to carry on the government-to-government relationship and the United States trust responsibilities for Indian lands and resources.

All of us are pleased that you begin this undertaking with a recognition that tribal sovereignty is the foundation for this relationship. The economic development of native communities is a priority and an objective that the members of the committee share with you.

You will also have a full agenda in addressing the challenges that you will inherit, and the management of Indian trust funds will no doubt be another high priority.

I am looking forward to working together with you, sir, to improve the Federal acknowledgement process by securing the resources necessary to assure the timely and efficient administration of the program, because too many tribes have been waiting for decades to have their petitions considered. I am certain that we can do a better job in this area.

There are many other issues that we will look forward to discussing with you in the days ahead and immediately following this hearing.

I have conferred with the vice chairman of the committee, and upon conclusion of this hearing, we hope to report out the nomination of Neal McCaleb as the next assistant secretary.

From the communications that we have been receiving, I would say, Mr. Secretary, that Indian country has high hopes for you. I hope that we can arrange to bring your nomination before the full Senate in the very near future.

Now it is my pleasure and great privilege to call upon the former chairman and now the vice chairman of the committee, Senator Ben Nighthorse Campbell.

STATEMENT OF HON. BEN NIGHTHORSE CAMPBELL, U.S. SENATOR FROM COLORADO, VICE CHAIRMAN, COMMITTEE ON INDIAN AFFAIRS

Senator CAMPBELL. Thank you, Mr. Chairman. Before you leave, I did want to take opportunity to congratulate you on reassuming the gavel after so many faithful years to this committee and to Indian country and to the United States.

As we have done in the past, I certainly pledge my support to this committee's unique spirit of nonpartisanship. I want to thank you. I note with interest, that they have not changed the signs yet to "Mr. Chairman." Somebody neglected to do that. [Laughter.]

The CHAIRMAN. That is just in case you become chairman again. [Laughter.]

Senator CAMPBELL. Well, I want to tell you, Senator, that I have been honored and proud to serve with you in any capacity over the years that I have been on this committee. I appreciate your personal friendship, too.

With that, I want to welcome Neal McCaleb to the committee, and also welcome our friend, Bill Anoatubby, the Governor of the Chickasaw Nation, to this morning's hearing.

It is a little bit convoluted, as some of you probably know, as we have two votes scheduled at 9:40 a.m., and then we will be back for a short period of time, and then we have another vote at 10:30 a.m., I believe. So we are going to be running in and out. if we can move it along by sharing the chairmanship, with the other members that are here, we will do that if we can.

But certainly, I have had the opportunity to speak privately with Neal, and I am very impressed with his background and his credentials. I see many, many challenges, as Senator Inouye does, to educating our Indian youngsters, and making sure that there are schools built.

Certainly, there is the trust fund mess, law enforcement and crime reduction in native communities, the trust fund mess, improving health status of all Native Americans, and the trust fund mess, building private sector economies, and a host of other things, including the trust fund mess. [Laughter.]

I mentioned that so that you will know how hard we worked in the last few years in trying to help the previous administration and this one, too, on resolving the problem we have, so that Indian people, who rightfully own that money, will be able to access it.

But these are not simple issues. I just wanted to wish you well. I am committed to working with you. I know Secretary Norton is. I am sure the President will help make all of the necessary progress during their tenure.

In the interest of time, since we do have a couple of votes, I would like to keep going, if we can, if it is all right with you, Senator Inouye?

The CHAIRMAN. Mr. Secretary, please excuse me, sir.

Senator CAMPBELL [ASSUMING CHAIR]. Before you start, Senator Akaka, did you have an opening statement?

STATEMENT OF HON. DANIEL K. AKAKA, U.S. SENATOR FROM HAWAII

Senator AKAKA. Yes, Mr. Chairman; I wish to echo the comments of both the chairman and vice chairman of the Committee on Indian Affairs, and to welcome Neal McCaleb to this committee.

Also, I want to recognize your wife and your family here. I want to commend you, too. I know you have been a busy man by your biography, but you were able to have 4 children and 14 grandchildren, in the meantime.

My hope is that you maintain the same proud commitment to the native peoples of the United States, as you brought to the native peoples of Oklahoma. I know my very, very close friend, Senator Inhofe, knows you well, and will also introduce you.

Mr. Chairman, thank you very much.

Senator CAMPBELL. With that, we will start with Senator Inhofe. Senator Nickles is not here yet, but when he comes, we will see him as soon as he gets here.

Senator Inhofe, you may go ahead.

STATEMENT OF HON. JAMES M. INHOFE, U.S. SENATOR FROM OKLAHOMA

Senator INHOFE. Thank you, Mr. Chairman. It is really an honor to do this, because I have known this guy for a long, long time. Normally, at these things, we go over the accomplishments.

The fact is that Neal McCaleb was appointed to be the first Secretary of Transportation in Oklahoma by former Governor Henry Bellman, that I know that some of you probably knew, and has had that position every since then. He has just really done something. He has performed miracles and a road building program in Oklahoma.

I first got to know Neal McCaleb, when we started our careers together. There are a lot of parallels between myself and Neal McCaleb.

For one thing, we are both 66 years old. Another thing is that we both have four children; another thing, he has 14 grandchildren. I am just about to have the ninth, and I am going to catch up with him. [Laughter.]

But I have to say that I had two questions that have not been answered. You wonder with a person like Neal, with all of his accomplishments and all of his background in Oklahoma, why he would leave that to come to Washington? I can tell you right now, Senator Campbell, he is making huge personal sacrifice to do this.

The other question that I have is why would Georgia Ann let him do it? I think the fact that he is making this sacrifice, this personal sacrifice, and I can look you in the eyes and tell you that it is, but many times when you are introducing someone to be confirmed for a very high position, such as this position, you talk about how qualified they are and all of that.

But in his case, he is actually making a sacrifice, to leave a State like Oklahoma, the State that has the largest Native American population in the Union, where things are tranquil, everybody loves everybody, and come to a city like Washington, DC.

He is getting into a job where there is going to be a lot of hostility, a lot of conflict. It makes you wonder why he is willing make that sacrifice, but he is doing it.

I can just tell you that we all are going to benefit, each one of you will benefit from getting to know Neal McCaleb, as I do. We started our careers together in 1967. He was appointed by a former Governor, who later became a U.S. Senator, Dewey Bartlett, to a very lofty position.

I started out in a State in a less lofty position that same year in 1967 in the State legislature. We served together for a period of time in the State legislature. I cannot think of anyone who is more qualified and who is making a greater sacrifice to serve his Nation than Neal McCaleb.

So it is just a great deal of honor that I have in introducing him here to you this morning.

Thank you, Mr. Chairman.

Senator CAMPBELL. Thank you Senator Inhofe. It is interesting that your careers paralleled each other so much. I guess the only thing that I would ask is, is he multi- engine and instrument rated? [Laughter.]

That was just a joke. It is all right, I will let him answer that.

Well, before we hear from him though, we have been joined by two of our esteemed colleagues. I would like to ask if they have any comments.

Senator Conrad, did you have any opening statement?

STATEMENT OF HON. KENT CONRAD, U.S. SENATOR FROM NORTH DAKOTA

Senator CONRAD. Just very briefly, Senator Campbell, I would like to indicate that I had a chance to meet with Mr. McCaleb, yesterday, and I was very impressed. We had a chance to talk about some of the serious challenges facing Indian country in my home State of North Dakota.

We talked about the lake of Devil's Lake, which is a remarkable natural phenomenon. I would say to my colleagues, we have a lake in North Dakota that is well named, because this lake is as big as Washington, DC.

It has risen 26 feet in the last 7 years, 26 vertical feet, and doubled in surface size. It is gobbling up communities. It is gobbling up farmland. It is threatening a town of 9,000. It presents us with enormous challenges, and it is right on the boarder of one of the major Indian reservations in our State.

In addition to that, we have major challenges of water quality on the Indian reservations, dilapidated schools, and housing shortages. In one case, there was an outbreak of black mold, because of these overly wet conditions, that we now believe will affect as many as 200 housing units on one of the reservations.

As my colleagues know, black mold is life threatening for the very young, and certainly for seniors, and anybody else with respiratory.

We had a chance to visit about all of these challenges with Mr. McCaleb. I was very impressed by his seriousness of purpose and his recognition of the problems that we confront.

So Mr. Chairman and members of the committee, I intend to be supportive of his nomination. I look forward to working with him, because I think that he brings the right attitude to this job, and certainly has outstanding professional credentials as well.

I want to say to Senator Inhofe, I think you did a good job of describing what it is he faces, coming to this town. This is a tough town. You know, for those of us who come from more sparsely populated States, I think that there is something in the cultures in the States that we come from. The people are nice to each other. [Laughter.]

That is not always the case in this town. Even sometimes for no reason, people are not particularly nice to each other. Maybe it is because we are all crowded in together, and people get a little short tempered.

But I can tell you that Mr. McCaleb is somebody that will make an impression on everybody that he works with. Again, I look forward to working with him.

Senator CAMPBELL. Thank you. We will now hear from someone who is never short tempered and always nice. [Laughter.]

He is the former chairman of this committee and a great champion of Indian country, Senator McCain.

STATEMENT OF HON. JOHN McCAIN, U.S. SENATOR FROM ARIZONA

Senator MCCAIN. I believe that it is "Ms. Congeniality." [Laughter.]

I want to thank you, Mr. Chairman, for scheduling this important committee hearing. If confirmed, Mr. McCaleb will undertake the daunting challenge to manage one of the Federal Government's most troubled agencies, the Bureau of Indian Affairs [BIA].

From the day the BIA was established in 1824 until now, over 1,000 studies and investigations have concluded that the BIA has been one of the worst managed and inefficient Federal agencies. When measured by the health, social, and economic conditions on many Indian reservations, it is painfully clear that the BIA's mission to improve the quality of life on reservations has failed.

Some of us believe that while BIA has survived this troubled existence, it can and should be reformed into an agency where the intended beneficiaries, the tribes, are in a position to orient the agency's goals and objectives, consistent with the principles of self-determination and self-governance.

Mr. McCaleb has a long history of experience in Federal Indian policy and governance. His record reflects his personal success as an entrepreneur, technician, and public servant. His appointment by Ronald Reagan to serve on the President's Commission on Indian Reservation Economies helped him to understand the state of Indian reservation economies. As Mr. McCaleb will quickly realize, we are still grappling with the same fundamental problems and barriers to stimulate reservation economies and improve the conditions of Native American communities.

Hopefully, by lessons learned in recognition of the importance of government-to-government relations in Indian country, Mr. McCaleb can and will make meaningful progress as the BIA Assistant Secretary.

I know he will follow through on his pledge, that one of his first acts in office will be to visit reservation areas and meet personally with tribal leaders.

I look forward to working with Mr. McCaleb in this new capacity, and encourage him to work with this committee to uphold and strengthen policies supporting Indian self-determination.

Finally, Mr. Chairman, I strongly support Mr. McCaleb. I note the presence of his wife here; welcome, Mrs. McCaleb. But I also had a conversation with Mr. McCaleb about the situations regarding Indian trust funds. It is a national scandal. The BIA was held in contempt of court.

It is so scandalous, that it continues to amaze me that it has gained so little attention. Literally, billions of dollars of Indian money that belongs to Native Americans and their tribes have been lost, diverted, or whatever. We still have not been able to get a handle on this situation.

The members of this committee have been grappling with this issue for many years. I am pleased that Mr. McCaleb's commitment to try and finally resolve this horrific problem, which has deprived Native Americans of billions of dollars of revenue that belong to them, which were placed into the stewardship and management of the Federal Government, which has been totally mismanaged to a degree that it still astounds me.

I am pleased that Mr. McCaleb is committed to trying to help us work together to resolve this real scandal in American treatment of Native Americans.

I thank you, Mr. Chairman.

Senator CAMPBELL. Thank you.

Last is Senator Dorgan from North Dakota, who has been such a strong advocate on Indian education. I would appreciate it if you have any comments.

STATEMENT OF HON. BYRON L. DORGAN, U.S. SENATOR FROM NORTH DAKOTA

Senator DORGAN. Mr. Chairman, thank you very much. I had a meeting scheduled with Mr. McCaleb and then our schedules fell apart. We were unable to meet prior to this hearing, but I look forward to having a longer conversation with him. I appreciate him offering himself for public service once again.

My colleague, Senator Conrad, was speaking as I came in, and my other colleagues have spoken. I think that they described to you, Mr. McCaleb, our feeling that we have a full scale crisis in Indian country in housing, education, and in the area of health care. In housing, education, and health care, there is a full scale crisis.

Yet, we are not mobilized as a country to respond to it. We had a tribal chairman write to me some while ago, and said, you know, I am the tribal chairman, working and living in a third world country. Then he described the situation in Indian country, poverty, children's issues and so on. The numbers are compelling.

I must say that I share some of the criticism that you have leveled at the BIA. I know that you now aspire to run it, but you have been previously critical of the BIA. I sometimes wonder whether that agency is not so awfully bureaucratic, that it really can not get much done at all.

I would like to mention two things to you. I held a hearing once on the subject of child welfare. A woman in one of our tribes, who was in charge of that area, began testifying. In the middle of her testimony, she began to weep and sob.

She said that she had stacks of files of reported sexual abuse and child abuse that were not even investigated, not investigated. Then she began to weep, and she said, you know, I just have to beg somebody to borrow a car to be able to haul one of these children to town.

She sobbed as she talked about it. She quit 1 month later. But she described a situation that is intolerable. It should not happen in this country.

There is a boarding school that my colleague and I worked on for a long, long while, in North Dakota. It is an Indian boarding school. I mean, this is our trust responsibilities. They need a therapeutic model there that is not adequately financed.

These kids come from backgrounds that are in desperate situations. They close the boarding school at Christmas and sent these kids back. Many of them do not have families to go back to. A young girl went to the superintendent, and said, could I stay here over the Christmas period? I know nobody will be here, but if you would let me stay, I would not need much food. She just wanted to be able to have some place to stay over the Christmas period.

The point that I am making is this. We have got a lot dysfunctional things going on in housing, health care, education, and especially with respect to children. We have to tackle it. We can not have that happening in our country any longer.

I wish you well as you aspire to run the BIA. I want to submit some questions for you. Mr. Chairman, I did not intend to go this long, except to say that all of us have a common interest here. I think you have that same interest.

Let us try fix these problems, and do it in a way that makes us proud that we have understood them and have addressed these problems, and made life better for a lot of people, who could not do it for themselves.

Mr. Chairman, thank you very much.

Senator CAMPBELL. Well, Neal, you probably know already from the comments that the Senators have made on this committee, that they would not serve on this committee unless they were seriously interested in trying to fix some of the problems and making it a little better out in Indian country for so many people.

This is not a big committee, when it comes to giving up the money or pushing activities through and things of that nature. But everybody is on this committee because they are already concerned.

The bell means that we are going to have to take a little break with the two votes. It almost will not be any use to come back right between them.

So what I am going to do is recess the committee for hopefully about 25 minutes. When I do come back, we will start with you, the nominee, Mr. McCaleb, accompanied by Bill Anoatubby and by Chief Tillman, too. With that, will be in recess.

[Whereupon, the committee recessed for a vote.]

Senator CAMPBELL. The committee will reconvene.

STATEMENT OF BILL ANOATUBBY, GOVERNOR, CHICKASAW NATION, ADA, OK

Mr. ANOATUBBY. Good morning, Mr. Chairman, it is certainly a privilege and an honor to be here today to visit with you about Neal McCaleb, of whom we are very proud.

First, let me say, I bring greetings from the great Chickasaw Nation. I have heard the comments of the other members of the committee, as well as the opening statements of yourself and the chairman, and the comments of Senator Inhofe.

It is very difficult to cover the same ground. Let me say this. I have great faith in the leadership, the integrity, the honesty, and the fairness of Neal McCaleb. I have known Neal for a number of years. I have known him to be a man of integrity.

He has been successful in the private sector. His service in the public sector is certainly well known. We are very proud of that. In fact, the Chickasaw Nation has honored him by placing him in

the Chickasaw Nation Hall of Fame, along with many other great Chickasaw leaders.

It is certainly a great day for us, as a Chickasaw Nation. Obviously, we have other great leaders within the tribe. There are those who have distinguished themselves. You may be acquainted with Tom Cole, who is Secretary of State for the State of Oklahoma. We have other leaders in the private sector, as well as the public sector.

Public service really has become one of the traditions of the Chickasaw people. Neal has certainly exhibited his zeal for public service. It has been one which has been highlighted by his interest in serving the people that he represents, not himself.

I think in the position of Assistant Secretary of Indian Affairs, he will have the same approach. It my privilege and also an honor to introduce him to you as a Chickasaw citizen, of whom we are greatly supportive in this confirmation. We will be delighted for the Senate of the United States of America to confirm him.

[Prepared statement of Mr. Anoatubby appears in appendix.]

Senator CAMPBELL. Thank you for your comments, Governor Anoatubby. Oklahoma has been blessed with a great number leaders in the Indian Nations. I note with interest that Ross Swimmer, former Assistant Secretary, is here today, too, and we welcome him.

Before we go on to Chief Tillman, I note that the new minority, the Republican whip, is now with us today. I know that he has a tight schedule.

Mr. TILLMAN. I hope your nation is running a little smoother than ours has been in the last few weeks. I have to tell you that. [Laughter.]

Senator CAMPBELL. Senator Nickles.

STATEMENT OF HON. DON NICKLES, U.S. SENATOR FROM OKLAHOMA

Senator NICKLES. Well, Governor Anoatubby has been Governor for some time. He does an outstanding job, Chairman Campbell, or it is Senator Campbell, I guess. Well, you have done an outstanding job as chairman of this committee, and you will do an outstanding job as Ranking Member, as well.

But I am pleased to join with my colleague, Senator Inhofe, in supporting strongly the nomination of Neal McCaleb to be Assistant Secretary for Indian Affairs.

He will do an outstanding job. He is well qualified. As Governor Anoatubby mentioned, he is a member of the Chickasaw Nation. He has been elected to their Hall of Fame, and I compliment you for your selection.

I can tell you on behalf of Oklahoma that we are very proud of Neal McCaleb. His experience and dedication to public service, and his success in public and in the private sector makes him more than qualified for maybe one of the most difficult jobs in the Government.

He has had success in the public sector. I have had the pleasure of knowing Neal for the last 20 years. I have served with him in the legislature. He was the Republican leader in the House of Representatives. He did an outstanding job in that capacity. He has

very good success in the private sector as a builder and engineer, building his own company, working, and creating jobs in the State.

He has worked among the tribes, for Indian development, going back in many capacities, selected by President Reagan. He served in the Oklahoma Indian Affairs Commission, the Oklahomans for Indian Opportunity, the National Council for Indian Opportunity, and President Reagan's Commission on Indian Reservation Economies. So he is as qualified as anybody could be.

He was the Secretary of Transportation for both Governor Bellman and Governor Keating. He has responsibility for managing thousands of employees and jobs, and billions of dollars. So he is well qualified and well prepared for maybe one of the toughest job in the Government.

I question his wisdom when he said that he was possibly willing to take it, but I am delighted that he is willing to take it. Our country needs him and our Nation needs him. The American Indian need him to be in this capacity. He is the right person at the right time for a very difficult job.

It is going to take the work of soon-to-be Secretary McCaleb, working with members of this committee and Members of Congress, to help solve some of the real challenges that we have in the Native American community.

I am just delighted that Mr. McCaleb will take this responsibility. I think he will do an outstanding job. I look forward to working with him and his wife Georgia Ann, that I see is here as well. We are delighted to have them take on this challenge.

I look forward to working with him to make this a successful endeavor. I think our two witnesses are supportive of his nomination as well.

Senator CAMPBELL. Before we hear from the nominee, I would like to hear if Chief Tillman has any comments.

STATEMENT OF CHARLES TILLMAN, JR., PRINCIPAL CHIEF, OSAGE NATION, OK

Mr. TILLMAN. Thank you very much, Mr. Chairman. It gives me great pleasure on behalf of the Osage Tribe of Indians and the Inter Tribal Monitoring Association [ITMA], which represents 50 tribes that have natural resource assets across this country. There is only one other entity that has more assets than we do, and that is the Federal Government, itself.

So within that resource, we put our trust, our faith, and our recommendation in Mr. McCaleb, because of his background, his history, and what he has stood for in Indian country over the years. There are national issues, and we all know about the unmet needs of Native Americans across this country. We have heard some of those things discussed this morning.

I do not envy Mr. McCaleb in this job that he has to undertake. I do not envy him at all. But I do encourage him. I want to stand by his side. I want to help him in every way that I can to enhance the betterment of the Indian country.

I could not pick a better man for this, at this moment, than Neal McCaleb to fulfill the Assistant Secretary's job. I strongly recommend him. Thank you, Mr. Chairman.

Senator CAMPBELL. Thank you, Chief Tillman.

Now, we will hear from Mr. McCaleb.

STATEMENT OF NEAL A. McCALEB, NOMINEE TO BE ASSISTANT SECRETARY FOR INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

Mr. McCALEB. Thank you, Mr. Chairman. I want to thank you all for your very kind remarks that have been made this morning on my behalf. I am certainly honored by that.

As it has been said several times, I am a member of the Chickasaw Nation. My mother was an original allottee of the Chickasaw estate, prior to statehood in Indian territory, in what is now Oklahoma.

It is my singular privilege and high honor to appear before you this morning, seeking your confirmation of my appointment by President Bush to the post of Assistant Secretary for Indian Affairs. I will try to briefly outline my motivation for seeking this position.

I am very mindful and very aware of the gravity of the circumstances and the responsibilities facing the BIA, that has been so clearly outlined and spoken about this morning. For more than 35 years, I have observed the conditions in which Native Americans and their tribal governments have found themselves to be largely nonparticipants in the prosperity enjoyed by the people of this Nation at large.

During this time, I have been privileged to participate in efforts to formulate and implement the current policy of Indian self-determination and tribal self-governance, as a Presidential appointee to the National Council on Indian Opportunity, during the Nixon administration and later on, on President Reagan's Commission on Indian Reservation Economics. This policy and its legal foundation of tribal sovereignty have been widely and enthusiastically endorsed by tribal leaders, and have begun to produce measurable progress in the form of self-governance and economic improvement in the lives of Native Americans.

This is evidenced by the fact that there are 220 self-governance tribes currently, of the total of 561 federally-recognized tribes. Second, the tribes have assumed the operation of 120 of the BIA's 185 schools, through contracting and compacting with the BIA. Third, there has been significant economic development, and outside capital investment on tribal lands.

Last, but certainly not least, the aggregate area of the tribal estate is expanding and not contracting. Notwithstanding these improvements, there continue to be, as it has been spoken about clearly this morning, tenacious problems, poverty, under-employment, educational under-achievement, and social dysfunction, experienced by Native Americans, all out of proportion to the national experience. The BIA has the primary responsibility to implement the policies mandated by Congress through the Secretary and the delegated responsibility to the Assistant Secretary of Interior for Indian Affairs. These policies and mandates are directed to the improvement and well being of our clients, the indigenous people of the United States.

The other primary goal that has been spoken about is our trust responsibility. The BIA has the historic responsibility as trustee of

the tribal estate and for the individual Indian estate. The BIA has suffered an erosion of trust with its clients, recently manifested in the adjudication of the *Cobell* v. *the Department of the Interior litigation.*

The Congress has anticipated and reacted to this problem far in advance of that, as early as 1994, by the creation the Office of Special Trustee, to oversee the BIA's trust functions.

This lapse of trust management in the records, accounting, and disbursements must be mended as rapidly as is consistent with authenticity, accuracy, and equity, in order to restore the trust with the BIA, and restore our position as trustee-in-fact of the Indian estate.

The BIA, in concert with the Office of the Special Trustee, is devoting significant resources in an effort known as the High Level Improvement Plan, with the objective of expeditiously complying with the Court's direction.

Within these two broad-based goals of effectively implementing our trust responsibility and improving the quality of life in Indian country, there are, I think, three primary and essential objectives.

The first is economic development. In order for the tribes to exercise true sovereignty for their peoples, it is necessary for the tribal governments to be able to provide the essential infrastructure and services that their constituents need for a functioning community.

The financing of such infrastructure for independent governments has historically been provided from a tax base derived from a viable economy. This economic activity has historically been absent in Indian country and most reservations, with the resulting dependency on the Federal Government's support, which has been inadequate and inequitably applied.

The solution to these problems is inherent in economic development of tribal lands. To achieve lasting and self-sustaining economies on reservations, we should build upon the successes of tribal enterprises by replicating the model of government business partnerships that we have seen in the past few years, through either a partnership or a franchise with tribal government.

These partnerships should be market-driven enterprises that take advantage of the unique sovereign status enjoyed by tribes. There has been abundant evidence in the recent years of the financial success in gaming activities experienced by numerous tribes, using this business government model.

This model can be exported to a variety of other enterprises, such as generation of electrical energy. This, in fact, is being developed by several tribes in partnership with private investors, as we speak.

The BIA's role in this process should be one of a facilitator, providing technical assistance and capital to both trial governments and individual Indians in private enterprise, to startup and to attract capital investment in viable market driven enterprises.

The BIA's economic development division should function as a clearing house, in concert with the Department of Commerce, to identify potential investors and businesses interested in locating on Indian lands and taking advantage of existing tax advantages attended thereto.

This cannot happen without access to markets, which is essential for economic development. This means transportation systems that are able to move personnel and product to and from the reservation and within the reservation. Reservations are historically remote to markets, and internal road systems have been inadequately funded from the Federal lands allocation of the Federal Highway Trust Fund.

To overcome this significant deterrent to economic development, I suggest that the reauthorization of the Federal Highway Trust Fund in fiscal year 2003 include a significant increase in the allocation to Indian reservation roads from the growth moneys in this trust fund.

Second, education is an additional critical requirement for sustained economic expansion, that being a well educated and skilled work force. Indian education is both a key to economic growth and enhanced quality of life.

The BIA has the responsibility for providing access to quality education through its own schools, tribally-operated schools, and the public school system. Many of the BIA schools are in disrepair and in need of additional classrooms, and the aggregate funding for these facilities is for below the demand.

President Bush has made a priority of increased funding for school improvements in his current budget, which will certainly be helpful to close the gap between needs and resources. As previously stated, 65 percent of the Indian schools are privately operated and lack funds for expansion, replacement, and major maintenance associated with these school facilities.

If they have to fund these on a pay-as-you-go basis, Indian children will be under-served for many years, and in some cases, placed in at risk in marginal or unsafe facilities.

To provide the tribe the ability to address this issue in a timely manner for those tribally-operated schools, as well as to address the other capital needs for their communities, I suggest that tribes be afforded the same tax exempt status as is currently enjoyed by local governments in the issue of bonded indebtedness.

Third, public safety on the reservation is a primary responsibility of the BIA, through its officers and tribal judicial systems. There are extensive needs for improved and expanded detention facilities throughout Indian country.

Privatization of these facilities by tribes and leasing back to the BIA can be one avenue to address the immediate and long term needs, especially if the tribes have the ability to issue tax free bonds to spread out the financing over an extended period of time.

The numbers of trained law enforcement officers are inadequate. This must be addressed to provide the safe and stable environment for the reservations, conducive to the protection of life, liberty, and the pursuit of happiness for America's indigenous people and their clients.

The key and repeated word in my remarks has been responsibility. By that I mean the ability to respond, as well as the obligation to respond to these needs, and the aspirations of this Nation's indigenous people in a timely and effective manner.

The ability of the Indian service to respond will be defined by its leadership at all levels, the informed support of its clients, and the resources provided by the Congress in its wisdom.

I would very much appreciate the privilege to participate in this most important work, should you consent to my nomination. Thank you for the opportunity to appear here today in pursuance of the objective.

[Prepared statement of Mr. McCaleb appears in appendix.]

Senator CAMPBELL. I have some questions, and you will be getting some in writing from other members. Before I ask, and note with interest that Senator Domenici, who has been a long time friend of tribal government, is here with us today. Did you have a statement, Senator?

STATEMENT OF HON. PETE V. DOMENICI, U.S. SENATOR FROM NEW MEXICO

Senator DOMENICI. Yes; I have a very brief statement, Mr. Chairman.

First, I have had the an opportunity to meet with the nominee in my office to exchange views on a number of things, which I will not duplicate here today.

But I want to say that your ideas and your thoughts about what we ought to be doing are very refreshing. I think you know that the beneficiaries of BIA, that is our Indian people, from time to time, would like to get rid of the BIA; and from time to time, would like to make sure that the BIA stays there.

Clearly, we are in a position where you are going to be running a very big operation for quite some time. Your principle mission is to do with that organization what the statutes say you are supposed to do, and to come up with new ideas that the Indian people will join you in, to their advantage and to their benefit.

It is now quite obvious that when given a chance, the Indian people can run a business. They are proving that in the casinos across our land.

While some object, here or there, as to how they are running them, the truth of the matter is, they are making money for their people. They are providing jobs in ways they never have had the opportunity to do before, or might I say otherwise.

I note your principle areas of concern, and one has to be jobs for Indian people. It is good that you are here and able to say what you want to do in that regard. But it is difficult when you get down to Indian pueblos or reservations, and wonder how you bring good paying jobs there.

You will go through many heartaches before you find successes, because it is very difficult to bring private sector jobs to Indian country, because of a number of things, not the least of which, is Indian sovereignty.

It is not that I am here objecting to it. I am merely stating a difficult set of facts, when you are confronted with bringing a private sector group to an Indian pueblo or reservation.

We hope you will analyze all of this with those who you represent, the Indian leaders. Maybe you just might come up with few thoughts and ideas that will make it easier or better for us to help

in economic development; that is, the bringing of good paying to Indian country.

I also wanted to share with you a couple things that we have a responsibility for, and we are doing rather poorly. That is law enforcement on the reservations and on our pueblos.

Because our the Federal Bureau of Investigations [FBI] is in charge of the 10 major crimes that are created in statue, there are many lesser crimes that clearly there is a lack of manpower and or facilities to treat them in a normal manner than we treat others that violate the law in our land.

I would hope you would establish peace and tranquility in our Indian communities as one of your high dedications. We look forward to suggestions you might have, and we look forward to a year when you can produce your own budget, after you have at this for 1 year.

To the Indian leaders, I hope they will give our new Secretary a chance. He deserves the chance to work with them and for them. Obviously, he does not share the same experience that Indian leaders do in New Mexico, because he is not a pueblo or reservation Indian, at this point in his life.

Nonetheless, you have to work with those who are, and you have to bring your talent, which is not small, to bare on these issues. I look forward to seeing that happen.

As far as I feel today, I am ready to cast the vote to send you to the Floor, and get you out of here as quickly as possible over to the BIA to get started.

Thank you very much, Mr. Chairman.

Senator CAMPBELL. I might tell the Senator that we are going to proceed at the end of this hearing with a markup.

Let me start by asking a couple of questions. When then-candidate George W. Bush met with me and with Senator Domenici, with 13 tribal leaders and with the candidate for Vice President in Las Cruces last summer, at that meeting, Presidential nominee Bush promised that he would put $920 million into fiscal year 2000 for Indian school construction, which is badly needed as you know.

Yet, the request that came through this year was only $292 million. Some of us are going to try and address this through the appropriations process and bump that money up to something that is livable.

It is my understanding that the administration will support that. I know that when they came in like something 6 weeks late, they did not have adequate time, in my view, to really put together a good budget plan. It was kind of rushed through. But I wanted to know if you have any thoughts on that issue of us increasing the money to tribal school construction.

Mr. MCCALEB. Thank you, Mr. Chairman. As I said earlier, I think education is one of the three critical areas that must be addressed. You can not have an adequate educational program in a facility that is totally inadequate, or in some instances, dangerous.

We are very, very far behind in terms of our needs versus the resources that have been put provided for both rehabilitation and new classroom construction. So, yes, I do support and expanded budget for construction for Indian schools.

Senator CAMPBELL. Thank you. Early on in that last campaign, I know being out and living on an reservation and traveling a lot

to reservations across the country, there was some fear on behalf of some Indian people that this new administration would not be supportive of Indian self-determination and sovereignty.

I think that there was some misconception. I read some of the statements in Indian Country Today, comments of people that believed that somewhere along the line the President-elect had said he did not support sovereignty or something that was taken out of context.

I think that those are fears that are unfounded. In fact, in his written policy statement to Indian country, I thought it was one of the best that I have seen since President Nixon, years and years ago.

How would you respond to those concerns now, if there are some still Indian country, that this President does not support sovereignty?

Mr. MCCALEB. I say give us a chance to go demonstrate that we do.

Senator CAMPBELL. That is a good answer.

Mr. MCCALEB. Because it is my impression and it is written policy, and it is my intention to carryout that policy to support sovereignty, as effectively as I can possibly can.

Senator CAMPBELL. I might also tell you with the advent of casinos, and all the money that it is providing, I guess it does not come as a surprise that there are all kinds of people that want to become Indian that did not care to be just a few years ago.

It has created a real problem here in Washington, as you probably know. We are getting all kinds of groups that want to be recognized as Indian tribes. Some, I think, have legitimate grounds and some I am not so sure of.

But in the last part of the last administration, we were asked, this committee was asked, several of the members were, if we would try put a moratorium on the recognition of new tribes. Senator Inouye did not feel real comfortable with that, and I did not either, because I thought it could be politicized from a partisan standpoint.

So we did not do anything, but that request actually came from the administration. It is going to be, I think, one of the most controversial issues that you face as the new Assistant Secretary.

Last year, I proposed taking that recognition process out of the BIA together, and setting up a independent commission. Do you think that process of recognition can be reformed within the Bureau, or that perhaps we ought to have some independent group that can take some of the pressure off the Bureau to recognize tribes?

Mr. MCCALEB. My experience with this is obvious limited at this point. However, I had a briefing from the Bureau's staff on this issue of acknowledgement and recognition from the BAR personnel.

The criteria and the recognition seem to be fairly objective, to me. There are numerous criteria. I think there are nine of them that are requisite for recognition. They have been very deliberate, as was indicated earlier, in the process of analyzing the tribes proposed to be federally recognized, both from an anthropological basis, and a number of others views of these objective criteria.

My inclination, Mr. Chairman, is to find out what about that system is not working and try to get it fixed immediately, rather than to just move the problem to an independent agency. Because notwithstanding the instances of failure on the part of the BIA, I think it is still the most sensitive and aware agency in the U.S. Government, to Indian interests.

Senator CAMPBELL. Clearly, there has been a real problem. Some tribal groups, as I understand it, have been waiting over 30 years for recognition. They have, in my view, been denied due process.

I mean, there has got to be limit on the ones that are legitimate and really want to be reinstated or instated for the first time. For others though, that is something the Bureau is going to have a real difficulty with.

I remember some years ago, one group got an understanding and friendly elected official here on the Hill to introduce a bill to bypass the process in the Bureau and to recognize them through a Congressional action.

When they came in for their hearing, I remember specifically asking them a number of questions that I thought anybody that has ever been close to his own roots ought to know. I asked them about their language, and they told me that they did not have a language anymore.

I asked him about their story of creation, that almost all Indian people know. They did not know that. I asked them about their songs, their dances, their traditional dress, and their lifestyle. They did not know that. I was somewhat exasperated.

I said, well, what do you have that makes you an Indian? They said, well, we've got a corporation. But I did not think that really qualified. They were not recognized. I think that group is still trying to get recognized.

But that points out the difficulty that we have of trying to do it here. Most of the people, I think on our committee, they do not want to circumvent the process, but we are being pulled into it a little more with each passing year, I believe.

What do you see as we enter, say, the next quarter century, as the most important thing that we can help the Bureau with, from the standpoint of this committee?

Mr. MCCALEB. I think what is needed right now for the Bureau is two things. One is some patience to sort out what has been referred by Senator McCain and by yourself as the trust mess. I do not mean an indefinite amount of patience. But there is, I think, effective ongoing remediation to this.

We should not be expecting a quick and immediate fix for problems that have been decades, if not more than a century, in the making.

The second is adequate resources to do the job that Congress defines, the role that you want the BIA to do.

We were talking about schools, for example. If you define the role to provide education and suitable educational facilities, then the resources to do that need to be there. I think those are the two primary things. Congress has been very good about giving guidance to the BIA.

Senator CAMPBELL. Well, in return, we need some guidance. So I think that I can speak on behalf of all the members on this com-

mittee, to tell you that it is very important for us to be kept in the loop, too, as you make some of the decisions you have to make.

Recently, you spoke at length about the trust management problem. Recently, the Bush administration decided not to appeal the decision in the *Cobell* v. *Norton* case, which I think is the right thing for them to do.

Would you support transferring the BIA trust functions to the Office of the Special Trustee?

Mr. MCCALEB. Well, in a word no; and the reason why is, some of those functions may well need to be in the Office of Special Trustee [OST].

But the trust functions are so broad and so all inclusive within the Bureau, that you are not really not transferring a single function, even as broad as education. You are transferring the basic primary responsibility of the BIA, that goes right down to the root jobs at the agencies and the regional offices.

To me, if you say transfer the trust responsibilities to some other agency, you are suggesting the elimination of the BIA and its recreation under another name. That might, in fact, be appropriate. But that is the reason that I asked for some patience to let the activities and systems that are being imitated right now operate.

Senator CAMPBELL. I see. During the last session, we enacted a proposal to establish the Regulatory Reform and Business Development on Indian Lands Commission. That would be done through the Department of Commerce, but there will be a lot of interaction with Interior, too.

In fact, it was an effort to create some inter-agency cooperation to help with the resources in developing some economic development within the tribal communities. I do not know if you were aware of that, were you?

Mr. MCCALEB. Yes; I read the bill.

Senator CAMPBELL. You did read it? Hopefully, you will be able to have a major voice in that, as we move along. We have had some meetings with the Department of Commerce about how they are going to set that office up. I think it has some real potential.

You also mentioned the problem with Indian reservation, the roads, and the importance of having a solid infrastructure for commercial development, and for literally anything, the safety health of the people living on the reservations.

This session, I reintroduced a bill that I had done once before, to provide some reform in the Bureau's Indian Roads Program, and to set up a demonstration pilot project through the Federal Highways Administration.

I would like you to look at the bill as we proceed. If you have any suggestions, we would certainly take that into consideration, considering your past record in Oklahoma, as Secretary of Transportation. I think that you really could bring some very strong wisdom to what we are trying to do to improve the highway structure.

Mr. MCCALEB. I look forward to that opportunity.

Senator CAMPBELL. You also mentioned tribal courts. Weak courts and a lack of legal infrastructure make business development very, very difficult in Indian communities, because in the past, it has really decreased the confidence of investors in Indian

country. Do you have any thoughts on the operation or the status of tribal courts?

Mr. MCCALEB. I want to be careful. I am not a lawyer. I am not a legal expert.

Senator CAMPBELL. Well, thank God for that. [Laughter.]

Mr. MCCALEB. One of the problems, I think, with investment on Indian lands is the sense of some investors or some businesses that they are not going to be protected by due process of the rule of law.

Senator CAMPBELL. Yes.

Mr. MCCALEB. In many cases, that concern has been justified. One of the things that I think the tribes are involved in the exercise of sovereignty is nation building. That means, creating the infrastructure, not just the hardware, but the legal apparatus.

In my judgment, that means the separation of the judicial from the executive, so there is an independent and even-handed judiciary, and that does not exist in many places.

It is hard for tribal governments. Many times, they consider that a incursion on their sovereignty. They have to make that decision. The BIA cannot make that decision for them. Frankly, the Congress should not make that decision, if we believe in the policy of self-determination.

But in order to encourage capital investment, there will have to be things done that make Indian lands business friendly.

Senator CAMPBELL. Yes.

Mr. MCCALEB. Those are policy decisions that the tribes will have to make.

Senator CAMPBELL. We tried to put together a bill last year, and we will be doing it again this year, to allow tribes to self-insure.

Because one of the things that we hear from investment groups is they are worried that they invest money to build a building on a reservation, then the tribal government changes, and they get the rug pulled out from under them on the contract, and they lose their investment.

We had some thoughts about letting tribes self-insure, so that if anything did go wrong, the people that invest the money would be able to recover their investment, at least. So you might work with us on that.

Maybe the last question that I would have deals with the youngsters, because I came from a dysfunctional home myself, as so many kids do of mixed ancestry. It deals with alcohol and drug abuse, which is on the rise, and gang-related problems that are on the rise, too.

This committee has tried to make a major impact on tribal courts, but also on dealing with the problem we have among our Indian youngsters. I think the Bureau has a very, very important role to play in that, as we move along.

What would you recommend that we do at the Federal level, to try to decrease the youth violence, the youth drop-out, and all of the things that are somehow entwined with drug abuse or alcoholism on reservations? That is kind of a big question, but you might have a thought on that.

Mr. MCCALEB. I think there are two avenues. The first avenue is law enforcement. As I have said earlier, we have an inadequate number of tribal police to enforce the laws.

There is an article in a recent Indian country magazine that depicted the reservations as kind of a archipelago of activity in route of the drug traffickers from the Latin American countries through Indian reservations to the northern part of the United States and to Canada, simply because of the lack of adequate numbers of law enforcement officers. The odds are better for them getting through.

First of all, you need to shut off the source. Second, you need to have good solid law enforcement on the reservations. That means that we have got to increase the numbers of law enforcement officers, because the statistics that I have seen show that the number of law enforcement officers per 10,000, is something like a third of the national average.

I am not a law enforcement expert, either. But it appears obvious to me that we are going to have to increase the number of law enforcement officers.

The second is to eliminate the hopelessness. Many of the problems that we have of drug abuse and alcohol abuse are symptoms of hopelessness and powerlessness that are the outgrowth of poverty.

If we can raise our economic expectations and our economic realities in Indian country, I think that will solve a number of those problems. That is not to say that every problem of alcoholism is a poverty problem, because I have known a lot of very wealthy alcoholics in my life.

But the sense of hopelessness that is a product of poverty and the powerlessness that goes with it has got to be turned around. I think that can only be done by raising the expectation of everyone, and particularly the youth, of the hope in their own future.

Senator CAMPBELL. Well, thank you, I agree. You know I support strong law enforcement. I used to be a policeman, years ago, and I have always since supported that. But I know that in many cases when you are dealing with youngsters, that just more police, and more incarceration, tougher standards, it does not get at the problem.

You might lock that youngster up, but it does not fix the root problem, which is, as you said, the underlying issues of poverty and hopelessness and so on. That has to be dealt with through education, job skills, and rehabilitation in some cases, and many other things, rather then just being tougher and tougher.

Well, I have no further questions. I just wanted to say that I do admire you for your desire to work with the Federal Government and Indian country. It is a very, very tough job, as other Senators have said.

You probably know that in the past, say, 15 or 18 years, there have been a number of GAO reports and other studies that are not very complimentary to the Bureau, as you probably know. It is my view that there are some people that just do wonderful jobs, and I certainly commend them. I think they are working very hard.

By the same token, we gotten involved in more things than I ever wanted to hear that are going wrong with the Bureau, too; things that deal with nepotism and cronyism, and the questionable giving of what are called gold star awards for meritorious service, that we never could track what the meritorious service was, to be able to justify these $10,000 and $20,000 gifts.

There is a lot of stuff that you are going to have to deal with that are quite complicated. We are not on the ground floor, as you will be, but certainly, we hear about it all the time, on the committee, as you might guess.

So I do commend you, Neal, and I hope you do very well. With Senator Inouye's concurrence, we were going to try mark this up today. But unfortunately, since no one is here and they are off to other hearings, we will not be able to report you out today.

But what we will try and do what is called polling them out. We will contact the Senators individually in their offices to see if it is all right using those informal procedures. I think that you should not have any trouble at all. We will know that within a day or two.

If we have any other questions, they will be submitted to you in writing. You might answer those to individual Senators. With that, we thank you for appearing.

Mr. MCCALEB. Thank you.

Senator CAMPBELL. Thank you, Chief Tillman, and Bill, it is nice to see you. With that, the committee is adjourned.

[Whereupon. at 11:04 a.m. the committee was adjourned, to reconvene at the call of the Chair.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF GOVERNOR BILL ANOATUBBY, GOVERNOR, CHICKASAW NATION

It is a pleasure to provide testimony to this committee relating to its consideration of Neal A. McCaleb as Assistant Secretary for Indian Affairs in the Department of the Interior. I hope that these comments will be beneficial to the committee in making this important decision.

Before I begin my comments, please allow me this opportunity to extend sincere appreciation for being allowed to have input into this committee's work. The task of the committee is not an easy one, but it is indeed an important one.

I take this opportunity at the very beginning to state that the Chickasaw Nation, as a whole, is very pleased that the President has placed his faith in Neal A. McCaleb for the job of assistant secretary. It is always a special recognition for an entire Nation when one of its own is so honored.

Speaking for myself, it is both an honor and also an obligation which I gladly accept, to speak with you about the person nominated by the President to serve as the assistant secretary of the Department of the Interior for Indian Affairs.

It is an honor because I have been acquainted with Neal McCaleb for about 20 years. As a citizen of the Chickasaw Nation, Neal, McCaleb has served his tribe and his State in numerous capacities. He has received—and answered—the call to public service. Like each of you through your own service to the people, Neal McCaleb has placed the needs of others above his own.

He has served Oklahoma in several capacities, including being the State's first secretary of transportation. He also served four terms of office in the Oklahoma State Legislature and on President Ronald Reagan's Commission on Indian Reservation Economies.

When the Chickasaw Nation was engaged in negotiations with the State government of Oklahoma to arrive at an historic agreement for, motor fuels taxes, Neal McCaleb was instrumental in the process. While being a sitting State official, he provided great educational services to other State officials relating to tribal sovereignty, walking the tightrope of being both a State official and a citizen of a Native American nation. His integrity not only served Native Americans, but the State as well, since his allegiance to his official responsibilities never wavered.

He has proven his value on many levels, including service to his tribe. He currently holds a seat on the board of directors of the Chickasaw Nation Bank, now being formed by the tribe. His leadership in that capacity is allowing us to be one of the first tribes to charter its own bank. We shall miss his service in that regard.

As a 1999 inductee into the Chickasaw Nation Hall of Fame, Neal McCaleb's numerous contributions to his tribe and to his State were formally recognized by his fellow citizens. He is the quality and caliber of citizen in whom we all take pride.

I said earlier that my testimony is also an obligation. I consider voicing my opinion an obligation because it is my duty to encourage your consideration of the person I believe will do the best job for Indian country. Over the years, Neal McCaleb

and I have had a good professional working relationship. He has done a credible job in each and every position he has held, public or private.

His experiences can only bring benefits to Indian country by virtue of his ability to understand the needs of Indian country for infrastructure development and continuation of programs to provide safe and decent housing, health care, jobs, educational opportunities, and improvements at all stages. I believe in Neal McCaleb.

I believe that he is fair and accurate in his assessment of the needs of the public, both Indian and non-Indian. As surely as Neal McCaleb has served his Chickasaw people so well, so will he serve all native peoples. As a citizen of the United States of America, the State of Oklahoma and of the unconquered and unconquerable Chickasaw Nation, he shall serve us all well.

Based upon my experiences with him, I believe that Neal McCaleb will do all that he can to continue the traditions of good relations between the United States and tribal governments. I believe that he will do a great job for all of us.

Based upon his history of public service to a State which coincidentally, also happens to be one of the most densely populated by Native Americans, and because he, too, is a Native American, Neal A. McCaleb is a good man for the job.

Thank you very much for allowing me the opportunity to provide these comments. I wish you every success in the tasks which lie before you. Your consideration of the appointment of Neal A. McCaleb will be appreciated across the Nation. Thank you.

PREPARED STATEMENT OF HON. TIM JOHNSON, U.S. SENATOR FROM SOUTH DAKOTA

Chairman Inouye, Ranking Member Campbell, and other members of the committee. I would like to begin by congratulating Mr. McCaleb, and by thanking him for taking the time to meet with me last week. I am heartened by many of his comments. I would like to take the opportunity to expand on some of my remarks made during our visit.

Throughout congressional history, members in both houses have struggled with the ways to ensure Native Americans have the economic opportunities they need to become more economically prosperous—while retaining their strong cultural, sovereign and traditional ties to their history. It is a fine line we walk between, cultures in finding a "solution" to the ails we still find in Indian country—especially in my State of South Dakota.

South Dakota is home to nine—mostly large, land based—tribes who have entered into a treasury of treaties with the Government of the United States of America. These tribes have gone through a long, traumatic history with the United States. There has been a massive reduction of land and natural resources. Disputes between boundaries and claims to mineral and land rights continue until this very day. Through all of our trials and tribulations, we have not been able to find a "silver bullet," "one size fits all" solution.

Throughout my 14 years in Congress, I have found one element can be the most successful of all the proposals. This is educating our Native Americans from young to old, from Headstart to graduate education. Without a skilled workforce, we are never going to be able to develop a stable economic base on the reservations and in the communities.

I was pleased that President Bush has made education one of his top priorities. However, I am concerned that we are not going to dedicate enough resources in educating our American Indians, Alaska Natives and Hawaiian Natives. In South Dakota alone, we have 22 elementary and secondary schools, and 1 dormitory within the BIA system.

Additionally, we cannot hope to educate our nations young people when the facilities they have are severely inadequate, overcrowded, and crumbling before our eyes. Mr. McCaleb, I invite you to visit South Dakota again and specifically visit our elementary, secondary schools, and its five tribal colleges. You will find school, that resemble those in the Third World and even worse. Most of our schools are overcrowded, and in major need of repair. Yet we do not find any South Dakota schools on the "active" school construction replacement priority list.

In the list which was published most recently in the Federal Register, we fortunately find 3 schools in the top 20. However, in the next 2 to 3 years if we continue funding replacement facilities at current levels, we are only going to be able to replace 2 of South Dakota's schools. If I were to offer a perfect solution to the reduction of the backlog, I would appropriate over $2 billion to cover the backlog. This just simply is not feasible.

One way I propose to reduce the backlog of schools on the priority list is by authorizing schools to issue privately bonds. I was heartened to hear that you sup-

ported such a proposal, and would urge your office to take a closer look at S. 243, the Indian School Construction Act, and provide official input from the Bureau of Indian Affairs [BIA]. My proposal establishes a bonding authority to use existing tribal education funds for bonds in the municipal finance market which currently serves local governments across the Nation. Instead of funding construction projects directly, these existing funds will be leverage through bonds and tax credits to fund substantially more tribal school replacement construction projects.

Additionally, I am pleased that the Bureau has decided to review the current priority list. I would hope that this would present a hope balanced ranking for schools in need. I am supportive of S. 211, the Native American Education Improvement Act. This act calls for the review of the priority list on a regular basis and mandates the Assistant Secretary to provide Congress with the rational behind its decisions. It is my hope that the BIA will dedicate more time and resources on the agency level to ensure that all of these crumbling schools have applied for the replacement list.

Similarly, tribal colleges have long been another of my priorities. Last year, not only were we successful in obtaining the highest level of funding for operating the colleges; we were successful at acquiring the first ever appropriations for tribal college facilities. I am pleased to again be apart of this effort to bring our tribally controlled colleges and universities to the standard every other land grant college enjoys. It is my hope that these colleges and universities would benefit from the continued support of the administration.

On a more somber note, Mr. McCaleb, you have inherited a legacy of gross mismanagement and negligence. This tragic issue crosses party lines and countless administrations. The relentless issue of the Trust Fund accounts had come to its pinnacle during the previous administration, and it is now on your shoulders to ensure this situation is remedied promptly. I have found myself in the middle of this debacle since my days as a Member of the House of Representatives where I served on the Trust Fund Task Force. Unfortunately, this problem has snowballed and accompanied me to the Senate. Attempts have been made to identify, account for, and clean up the trust records held in the Federal Government's possession. More can, should, and will be done.

I do not expect an overnight solution to this monumental problem. In fact, I hope that care and close attention is finally given to these documents. Far too much time and resources have been exhausted attempting to remedy this deplorable situation, which affects far too many of South Dakota's poorest people. This is one of the most urgent problems we face in Indian country, and there are so many more problems that abound from, or the solutions stem from the inability to come to terms with this issue. Congress has been to this table at least 10 times in the past few years. I do not want to revisit this issue 10 more.

Interest remains to afford you the resources necessary to assist you in this endeavor. As a member of both the Senate Committee on Indian Affairs and the Appropriations Committee, I look forward to closely working with your office and the Office of the Special Trustee on bringing the issue of missing and unaccounted for documents to a close.

I appreciate your eagerness and willingness to take on this daunting task of Assistant Secretary of the BIA. I would encourage you to continue to work with me and my office in the future. I wish you and your family the best of luck!

PREPARED STATEMENT OF EDWARD K. THOMAS, PRESIDENT, CENTRAL COUNCIL OF THE TLINGIT AND HAIDA INDIAN TRIBES OF ALASKA

Greetings from Alaska. My name is Edward K. Thomas. I am the elected president of the Central Council of the Tlingit and Haida Indian Tribes of Alaska, a federally recognized Indian tribe of 23,000 tribal citizens. I am please to provide this testimony in full support of the immediate confirmation of Neal McCaleb as the next Assistant Secretary for Indian Affairs in the Department of the Interior.

Mr. McCaleb's strong administrative and political background gives him the tools to be a strong Assistant Secretary for Indian Affairs. It is clear that the Bureau of Indian Affairs [BIA] is plagued with many administrative problems that will need strong administrative leadership to properly address. Although Mr. McCaleb may not have first-hand working knowledge of Alaska Native problems, he has a reputation of being a very thorough person and I am positive that he will take the necessary measures to better understand the issues of our Native people in Alaska.

Finally, I commend Congress, especially this committee, for moving forward on this important confirmation in a relatively timely manner. There are many challenging issues facing American Indian and Alaska Native people that will need his lead-

ership in properly addressing. His tenure is relatively short in consideration of the long history of most of these problems, so it is vitally important that his confirmation go forward without further delay. I also thank the committee for moving forward on this confirmation in the true spirit of bipartisanship. I am confident that we will all be better off when Mr. McCaleb is fully confirmed and at the helm in the BIA.

Thank you for your kind attention and best wishes in your deliberation.

PREPARED STATEMENT OF NEAL A. MCCALEB, NOMINEE FOR THE POSITION OF ASSISTANT SECRETARY FOR INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

My name is Neal McCaleb and I am a member of the Chickasaw Nation. My mother was an original allottee of the Chickasaw estate in Indian Territory in what is now Oklahoma. It is a singular privilege and high honor to appear before you this morning seeking your confirmation of my appointment by President Bush to the post of Assistant Secretary for Indian Affairs and I will try to briefly outline my motivation for seeking this position. I am very aware and mindful of the gravity of the circumstances and the responsibilities facing the Bureau of Indian Affairs [BIA].

For more than 35 years I have observed the conditions in which Native Americans and their tribal governments have found themselves to be largely non-participants in the prosperity enjoyed by the people of this Nation at large. During this time I have been privileged to participate in efforts to formulate and implement the current policy of Indian self-determination and tribal self-governance as a Presidential appointee to the National Council on Indian Opportunity under President Nixon and, later, on President Reagan's Commission on Indian Reservation Economies.

This policy and its legal foundation of tribal sovereignty have been widely and enthusiastically endorsed by tribal leaders and have begun to produce measurable progress in the form of self-governance and economic improvement in the lives of Native Americans as evidenced by: (1) there are 220 self-governance tribes of the 561 federally recognized tribes; (2) the tribes have assumed the operation of 120 Indian schools of the 185 BIA schools through contracting or compacting with the BIA; (3) there has been significant economic development and outside capital investment on tribal lands; and (4) the aggregate area of the tribal estate has been expanding.

Notwithstanding these improvements, there continue to be tenacious problems of poverty, underemployment, educational underachievement and social dysfunction experienced by Native Americans out of proportion to the national experience at large. The BIA has the primary responsibility to implement the policies mandated by the Congress through the Secretary of the Interior and the Assistant Secretary for Indian Affairs that are directed to the improvement and well-being of our clients, the Indigenous peoples of the United States.

In addition to the challenging goal of improving the quality of life in Indian country, the primary historic responsibility of the BIA is as "Trustee" of the tribal and individual Indian estate. The BIA has suffered an erosion of trust with its clients recently manifested in the adjudication of the *COBELL* v. *Department of the Interior* litigation. The Congress reacted to the problem of trust management as early as 1994 with the creation of the Office of Special Trustee to oversee the BIA's trust functions. This lapse of trust management in the records, accounting and disbursements must be mended as rapidly as is consistent with authenticity, accuracy, and equity as a first step in restoring our credibility as "Trustee" of the Indian estate. The BIA, in concert with the Office of Special Trustee, is devoting significant human resources to this effort, as outlined in the "High Level Improvement Plan" with the objective of rapid remediation of these critical problems.

In order for the tribes to exercise true sovereignty for their peoples, it is necessary for the tribal governments to be able to provide the essential infrastructure and services needed by their constituents for a functioning community. The financing of this infrastructure for independent governments has traditionally come from a taxbase derived from economic activity. This economic activity has historically been absent from most reservations, with the resulting dependency on Federal Government support, which has been inadequate and inequitably applied. The solution to these problems is inherent in economic development on tribal lands. To achieve lasting and self-sustaining economies on reservations, we should build upon the successes of tribal enterprises by replicating the model of private investment on tribal lands in a partnership or franchise with tribal government. These partnerships should be market driven enterprises that take advantage of the unique sovereign status enjoyed by tribes. There has been abundant evidence of financial successes in gaming activities experienced by numerous tribes using this business-government model. This model can be exported to a variety of other enterprises such as genera-

tion of electric energy, and is in fact being developed by several tribes in partnerships with private investors.

The BIA's role in this process should be one of a facilitator providing technical assistance and seed capital to both tribal governments and individual Indians in private enterprise to startup and attract capital investment in viable market-driven enterprises. The BIA's Economic Development division should function as a clearinghouse in concert with the Department of Commerce to identify potential investors and businesses interested in locating on Indian lands and taking advantage of existing tax advantages attendant thereto.

Access to markets is essential to economic development. This means transportation systems to move personnel and products to and from the reservation and within the reservation. Reservations are historically remote to markets and internal road systems have been inadequately funded from the Federal Lands allocation of the Highway Trust Fund. To overcome this significant deterrent to economic development, I suggest that the reauthorization of the Federal Highway Trust Fund in Fiscal Year 2003 include a significant increase in the allocation to Indian Reservation Roads from the growth in this fund.

An additional critical requirement for sustained economic expansion is a well-educated and skilled workforce. Indian education is both a key to economic growth and enhanced quality of life. The BIA has the responsibility for providing access to quality education through its own schools, tribally operated schools and public school systems. Many of the BIA's schools are in disrepair or are in need of additional classrooms and the aggregate funding for these facilities is far below the demand. President Bush has made a priority of increased funding for school improvements in his current budget, which will be helpful to close the gap of needs versus resources. As previously stated, 65 percent of the Indian schools are tribally operated and lack funds for expansion, replacement, and major maintenance associated with their school facilities. If they have to fund these on a pay-as-you-go basis, many Indian children will be under-served for many years and in some cases placed at risk in marginal or unsafe facilities. To provide the tribes the ability to address this issue in a timely manner as well as other capital improvement needs, I suggest that tribes be afforded the same tax-exempt status as is currently enjoyed by local governments in the issuance of bonded indebtedness.

Public safety on the reservation is the primary responsibility of the BIA through its officers and tribal judicial systems. There are extensive needs for improved and expanded detention facilities throughout Indian country. Privatization of these facilities by tribes and leasing back to the BIA can be one avenue to address the immediate and long-term needs, especially if the tribes have the ability to issue tax-free bonds to finance the initial construction. The numbers of trained law enforcement officers are inadequate and must be addressed to provide a safe and stable environment on the reservation conductive to the protection of the life, liberty and pursuit of happiness for America's Indigenous peoples and their clients.

The key and repeated word in my remarks is "responsibility," and by that I mean to imply the "ability to respond" as well as the "obligation" to respond to the needs and aspirations of this Nation's Indigenous peoples in a timely and effective manner.

The ability of the Indian Service to respond will be defined by its leadership at all levels, the informed support of its clients,. and the resources provided by the Congress in its wisdom.

It would be my privilege to participate in this most important work should you consent to my nomination. Thank you for the opportunity to appear here today in pursuance of that objective.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, May 23, 2001.

Hon. AMY L. COMSTOCK,
Director, Office of Government Ethics,
Washington, DC.

DEAR MS. COMSTOCK: The enclosed financial disclosure report [Enclosure 1] signed by Mr. Neal A. McCaleb, on May 1, 2001 for the position of Assistant Secretary—Indian Affairs, Department of the Interior, has been reviewed and found to be in compliance with 5CFR 2634.605, the conflict of interest prohibitions contained in 18 U.S.C. §201–209 and Executive Order 12674 [as modified].

Mr. McCaleb has been counseled on the statutory restriction in 18 U.S.C. §208 which prohibits him, in his official capacity, from becoming personally and substan-

tially involved in a particular matter when he, his spouse, minor child, general partner or outside business associate, has a financial interest in that matter. He understands that he is personally responsible for being aware of, and avoiding any action that may place him in violation of 18 U.S.C. §208 or any other ethics law or regulation.

Mr. McCaleb has been advised that he may not have any outside earned income while serving in the position of Assistant Secretary—Indian Affairs and may not serve as an officer, director, or trustee for any for-profit entity.

Mr. McCaleb has been provided with a copy of the Department's *Ethics Guide for Political Appointees and Senior Executive Service Managers of the Department of the Interior,* which outlines the standards of conduct regulations contained in 5 CFR part 2635. He was advised that in the event that he has any questions on the application of any conflict of interest statutes or regulations to a specific situation, he shall immediately seek advice from me or from a member of my ethics staff.

Mr. McCaleb has signed an ethics agreement [Enclosure 2] outlining the actions he will take upon confirmation to eliminate any real or apparent conflicts of interest.

Based on our review, and analysis of the information provided, and on Mr. McCaleb's recusal agreements, I have determined that Mr. McCaleb will be in full compliance with the ethics statutes and regulations which apply to the Assistant Secretary—Indian Affairs, Department of the Interior.

If you have any questions concerning this matter, please contact Ms. T.J. Sullivan on (202) 208–7950.

Thank you.

Sincerely,

WENDELL SUTTON, *Deputy Assistant Secretary for Human Resources and Designated Agency Ethics Official*
Enclosures.

WENDELL K. SUTTON,
Deputy Assistant Secretary for Human Resources,
U.S. Department of the Interior, Washington, DC.

DEAR MR. SUTTON: The purpose of this letter is to describe the steps that I intend to take to avoid any actual or apparent conflict of interest in the event that I am confirmed for the position of Assistant Secretary, Indian Affairs, Department of the Interior.

I certify that I have been advised of the statutory restriction in 18 U.S.C. §208 which prohibits me, in my official capacity, from becoming personally and substantially involved in a particular matter when I, or any other person whose interests are imputed to me, have a financial interest in that matter. I have also been advised of the provisions of Executive Order 12674 [as modified by E.O. 12731] which prohibit me from taking any actions that may create the appearance of impropriety.

As required by 18 U.S.C. §208(a), I will not participate personally and substantially in any particular matter that has a direct and predictable effect on my financial interests or those of any other person whose interests are imputed to me, unless I first obtain a written waiver, pursuant to section 208(b)(1), or qualify for a regulatory exemption pursuant to section 208(b)(2). I understand that the interests of the following persons are imputed to me: my spouse, minor children, or any general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

Further, I will continue as a general partner in Triangle Investments, Ltd., Edmond, OK, which is a commercial real estate partnership. My involvement in Triangle Investments, Ltd. will be limited to being a passive investor and I will receive no compensation for services. I will not knowingly participate personally and substantially in any particular matter that will have a direct and predictable effect on the financial interests of Triangle Investments, Ltd., or any of its general partners, unless I first obtain a written waiver or qualify for a regulatory exemption.

Upon confirmation, I will resign my position as Director, Oklahoma Transportation Authority. Furthermore, pursuant to 5 C.F.R §2536.502, for 1 year after I terminate my position with the Oklahoma Transportation Authority, I will not participate in any particular matter involving specific parties in which the Oklahoma Transportation Authority is a party or represents a party, unless I am authorized to participate. I will continue to participate in the Oklahoma Transportation Authority's defined contribution pension plan.

Upon confirmation, I will resign my position as Director, Oklahoma Department of Transportation, which reimburses the Oklahoma, Transportation Authority for a portion of my salary. Furthermore, pursuant to 5 C.F.R §2536.502, for 1 year after I terminate my position with the Oklahoma Department of Transportation, I will not participate in any particular matter involving specific parties in which the Oklahoma Department of Transportation is a party or represents a party, unless I am authorized to participate.

Upon confirmation, I will resign as President, but will continue to hold an interest in Arrowhead Homes [Sub S], which is a residential land development company which I own. With respect to this holding, I agree to limit my income to capital gain income and will not be involved in the management or other business decisions of Arrowhead Homes. Furthermore, pursuant to 18 U.S.C. §208, I will not participate personally and substantially in any particular matter that will have a direct and predictable effect on the financial interests of this company, unless I first obtain a written waiver or qualify for a regulatory exemption.

Further, I will continue to participate in a self-directed Simplified Employee Pension [SEP] plan with Arrowhead Homes [Sub S]. This plan is a defined contribution pension plan which is invested in stocks and diversified mutual funds.

Upon confirmation, I will resign from the following positions: Secretary, Oklahoma Department of Transportation; President, Arrowhead Homes; Chairman, Chickasaw Enterprises, Chickasaw National Bank Board; Director, American Association of State and Highway Transportation Officials; and Vice President, Western Association of State and Highway Transportation Officials. Pursuant to 5 C.F.R. §2635.502, for a period of 1 year after my resignation from these positions, I will not participate in any particular matter involving specific parties in which any one of these is a party, or represents a party, unless I am authorized to participate under 5 C.F.R. §2635.502(d).

Sincerely,

NEAL A. MCCALEB

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC.

Hon. DANIEL K. INOUYE,
Chairman, Senate Committee on Indian Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to Section 101(b)(1) of the Ethics Reform Act of 1989, I hereby certify and report that the information required by 5 CFR 2634.606(a) with respect to outside earned income and honoraria, as set forth in my Financial Disclosure Report (SF–278) dated May 1, 2001, is current as of this day.

On June 1, 2001, I received $11,120.00 from the Transportation Authority of the State of Oklahoma as salary from my former employer.

I further certify that I have transmitted copies of this report to the Designated Agency Ethics Official of the Department of the Interior and to the U.S. Office of Government Ethics.

NEAL MCCALEB

Washington,
District of Columbia.

Subscribed and sworn before me on this 12th. day of June, 2001.

MASON ISAI, *Notary Public*

My commission expires: April 30, 2005

Hon. DANIEL K. INOUYE,
Chairman, Senate Committee on Indian Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Enclosed you will find my responses to your written questions following my confirmation hearing before the Senate Indian Affairs Committee on June 13, 2001.

If I can be of further assistance, please let me Know.

Sincerely,

NEAL A. MCCALEB, *Assistant Secretary—Indian Affairs Designate*

The CHAIRMAN. Teacher shortages make it increasingly difficult for small, isolated BIA-funded schools to recruit and retain experienced teachers. Please tell us your plans for increasing the number of qualified teachers.

Mr. MCCALEB. I intend to increase the number of qualified teachers by providing an attractive and functional learning environment with teaching resources for classroom activities. I know that recruiting and retaining qualified teachers is critical to providing a quality education program for children enrolled in BIA funded schools. I believe that the BIA needs to work with the Office of Human Resources to establish recruitment activities for teachers, and to develop a package of incentives that will attract good and qualified personnel, along with incentives to retain them. It is important for the BIA to use current technology, such as a teacher recruitment website, and form partnerships with colleges that train teachers to supply high quality personnel to the BIA schools. I will direct the BIA Office of Indian Education Programs to work with the tribal colleges that have teacher training programs and enlist them in developing teachers for the BIA's elementary and secondary schools.

The CHAIRMAN. As you know, there is currently a congressional moratorium on grade expansions at Bureau-funded schools. What are your ideas for addressing Indian student education for tribes that do not have access to Bureau-funded schools but that want control of the education of their students?

Mr. MCCALEB. I am advised that the majority of tribes have assumed control of the education programs available through the Bureau of Indian Affairs [BIA], including programs such as the Higher Education grant program and the Johnson O'Malley [JOM] program. The JOM program provides tribes and tribal organizations the opportunity to participate in meaningful ways in the education of their children enrolled in public schools. Indian Education Committees have statutory and regulatory control over that program. Tribes need to become involved through the school board process by electing a tribal member to public school boards, especially where the majority of the student population is composed of Indian students. Tribal departments of education are another area that need to be addressed. I believe Tribes need to develop their own capacity to oversee education programs authorized, administered, or provided by other entities. Through these tribal education departments, appropriate education ordinances could be developed that affect tribal members.

The CHAIRMAN. The BIA continues to provide substantial Facilities, Improvement, and Repair [FIR] funds to schools which are on the new school construction list and expect to receive a new school within 2 to 3 years. Do you have any proposals for addressing emergency or immediate FIR concerns of existing schools that expect a new school within 2 to 3 years, while also considering the needs of other schools' FIR concerns but are lower on the school construction priority list?

Mr. MCCALEB. The BIA continues to supply Facilities Improvement and Repair [FIR] funding to schools that are scheduled for replacement several years in the future; however, the funding is limited to repairing only those conditions that, if not addressed, could pose a potential risk to the health and safety of students and staff. I understand that funding resources are hard to come by. As such, I am advised that the BIA does a good job in maintaining an acceptable environment until a replacement school can be constructed.

In order to address the needs of schools that are not on the Replacement List, the BIA has operated a priority ranking process for years that was approved by Congress and allocates Major Improvement and Repair funding based on an individual school's backlog of code and standard deficiencies. The BIA reports that these projects have been reflected within their annual budget submission and their 5 Year Capital Asset Plan.

Emergencies at schools are handled as they occur and funding is requested and provided in the annual budget as a subset of FIR appropriations. The BIA provides Minor Repair and Improvement funding, annually, based on the need to correct small items that would not be covered by ordinary maintenance at the facility and, if left unattended, could result in a major FIR project. Schools are also eligible to receive funding for projects based on need and ranking for roofing, environmental compliance, and portable classrooms.

The CHAIRMAN. President Bush has indicated that he plans to eliminate the current school FIR backlog within 6 years. How will you ensure that FIR funds are efficiently used to eliminate the backlog by the target date?

Mr. MCCALEB. The President, Secretary, and I are committed to eliminating the current school facilities' backlog of code and standard deficiencies within the next 6 years. Under my leadership, the BIA will ensure the efficient use of FIR funding by its present process that prioritizes and ranks individual schools nationally based on an evaluation of their backlog of code and standard deficiencies, thus assuring that the most needy school problems are handled first. The backlog will be mon-

itored and evaluated annually to determine the progress being made toward the goal of eliminating the deficiencies during the next 6 years. This information will be shared with Congress. I also expect the BIA to conduct "value engineering" workshops on all proposed school projects in excess of $1 million at the 70 percent completion stage of construction documents.

The CHAIRMAN. Contract support costs have begun to receive much needed attention from the Congress in recent years to support tribal operation of many BIA functions, But the tribal operation of BIA schools, funded under a different appropriations line item in the form of Administrative Cost Grants, have failed to gain similar attention. What steps will you take to ensure that Administrative Cost Grants, currently funded at less than 80 percent of the need generated by the Federal statutory formula, and the Student Transportation Budget, currently funded at a rate per mile of less than 70 percent of what the national average was over 4 years ago, are addressed in a more adequate manner?

Mr. MCCALEB. Although I am generally aware of this issue, it is very complex. I look forward to familiarizing myself with the issue and the congressional view of these matters.

The CHAIRMAN. Skyrocketing fuel costs have created even greater shortfalls in funding for student transportation at BIA schools. In addition, the BIA recently acknowledged an $11 million shortfall for basic school transportation. How do you propose to address this shortfall?

Mr. MCCALEB. Due to increased fuel costs that could not be predicted when the budget was developed, schools are faced with a sharp increase in transportation expenses. We must make sure resources are available to transport children to school. I will work with the BIA and the Department budget office to monitor this situation this year and will work to address the short fall.

The CHAIRMAN. As you are aware, the BIA administers funding for the core operations of most of the tribal colleges and universities. This funding is crucial because it is the primary source of financial support for the institutions, in the past, the BIA has not been a champion of the tribal colleges, particularly in advocating for increased funding. Please tell us how you might influence the current culture at the BIA regarding the core budget for the tribal colleges.

Mr. MCCALEB. The tribal colleges are very important institutions in the communities they serve as well as to the overall education program provided by the BIA. In the last few years, tribal colleges have received increases through the budget process. I understand the BIA has met with the colleges to discuss funding needs and various methodologies that can be used to support future budget requests. I agree that core funding must continue to be secured for the colleges while at the same time providing sufficient resources for the elementary and secondary programs.

The CHAIRMAN. There has been discussion during the last several years about transferring policy and budget responsibility for the tribal colleges and universities from the BIA to the Department of Education. What are your thoughts on this proposal?

Mr. McCaleb. I am willing to meet and discuss this issue with representatives of the tribal colleges and senior management officials in BIA's Office of Indian Education to explore all avenues available to increase the likelihood of greater success of post-secondary Indian education. I am committed to working with the colleges and hope to explore their issues more in-depth once I take office.

The CHAIRMAN. The tribal colleges and universities are relatively young and financially strapped institutions that do not have the financial cushion of endowments or funding from other sources. For the most part, they are dependent on core funding from the Federal Government for their operations. In years when Congress does not pass the Interior Appropriations bills prior to the beginning of the fiscal year, many of the colleges have been forced to get high interest "bridge loans" to carry them until the appropriations bill is enacted. Several of the colleges have nearly closed as a result of this reoccurring dynamic.

One option would be for the Interior Department to implement a forward-funding mechanism that would ensure that the colleges would not be held hostage to late appropriations, as has been done with other federally funded schools. Could you provide this committee with your thoughts on this?

Mr. MCCALEB. I know that delayed appropriations have caused problems for many programs funded by the BIA. Tribes are affected when the appropriations process is not completed by October 1. The forward-funding mechanism is one way to address this issue. I am willing to learn more about this option.

The CHAIRMAN. The Tribally Controlled College or University Assistance Act provides funding for core operations for 25 of the Nation's tribally controlled colleges. The account that funds the colleges core operations were first funded in 1981 at

$2,831 per full time Indian student count [ISC]. Twenty years later, enrollments at the tribal colleges have increased by 328 percent and yet the core operations funding level is just $3,840 per ISC, not factoring in inflation.

The President's Fiscal Year 2002 budget request for core operations at the tribal colleges proposes a $1 million increase to be shared by the 25 colleges funded under this account.

How do you see the Department of the Interior/BIA adjusting its budgeting priorities to allow for larger annual increases to more adequately fund the core operating budgets of the tribal colleges?

Mr. MCCALEB. The BIA consults on an annual basis with tribes on budget priorities and needs. I will work to address the budget needs for all BIA-funded programs. Tribal colleges are one of those important programs that meet the needs of individuals for continuing education and support the tribe's need for an educated workforce. As mentioned earlier, I will work with tribal colleges on their budget needs.

The CHAIRMAN. In 1996, President Clinton signed Executive Order 13021, which directs the Federal Government to work closely with tribal colleges and universities. The Executive order has been extremely successful in some agencies, such as the Department of Agriculture and the National Science Foundation, resulting in new partnerships with the colleges and the Federal Government. However, the Executive order has engendered little response at the Department of the Interior and particularly at the BIA.

Could you share with the committee your plans for assuring compliance with this Executive order?

Mr. MCCALEB. I am committed to working with the tribal colleges. I will ask the Office of Indian Education Programs to prepare a report on what activities are currently being provided by the Department and will followup with the colleges to explore if additional resources can be provided by BIA.

The CHAIRMAN. In your written testimony, you suggested that tribal governments be afforded the same tax exempt status as local governments with respect to issuing bonds. As you may be aware, Senator Johnson introduced the Indian School Construction Act, along with bipartisan cosponsorship.

This bill [S. 243] will authorize tribes to issue bonds to attract private investment. Private investors will be granted tax credits in lieu of interest on their investment. This legislation enjoyed bipartisan support, as well as support from the last administration.

Have you had a chance to review this legislation, and if so, do you support this innovative proposal?

Mr. MCCALEB. I have not had the opportunity to review that specific legislation. The provision of safe school facilities is a high priority for the President and this administration. The administration has made education a top priority and so will I. I look forward to reviewing the legislation and having further discussions with Senator Johnson.

I should also mention that I would like to study the viability of creative bond funding to finance capital projects that will enable us to build safe, state-of-the-art classrooms for our young Indian students.

The CHAIRMAN. Will you promptly appoint the Board of Directors to the American Indian Education Foundation?

Mr. MCCALEB. When confirmed, I will meet with the BIA's Office of Indian Education Programs, the Department's Senior Policy officials, and White House liaison to discuss appointments for the Board.

Senator JOHNSON. What is your view on the Tribal Colleges?

Mr. MCCALEB. Tribal colleges provide a valuable resource to Indian communities and opportunities for individuals who want to continue their education close to home. While the direct economic benefits to the local Indian community are easily discerned in terms of goods and services, the indirect benefits resulting from highly educated tribal members are equally substantial.

Senator JOHNSON. Would you support full funding of our tribal college operating budgets?

Mr. MCCALEB. I understand there is a gap between what the colleges currently receive and what is authorized by statute, I will work with the college presidents and with Departmental staff in the Federal budget process to secure adequate resources for the tribal colleges in order for them to provide a quality post-secondary education.

Senator JOHNSON. How do you propose we attract more Native teachers to our schools and tribal colleges?

Mr. MCCALEB. It is critical that we recruit and retain quality teachers for schools funded by the Bureau, including tribal colleges. We need to continue to support trib-

al colleges that have 4-year teacher education programs and recruit those teachers to our elementary and secondary schools. We also need to provide competitive salaries and staff development opportunities to retain teachers and principals. At the same time, we need to recruit Indian teachers at the graduate level to our tribal colleges by working with traditional universities and recruiting students who are enrolled in their graduate schools. We also need to work closely with sponsoring. graduate-level scholarship agencies to gain access to Indian graduate students and begin to recruit them while they are still in graduate school.

Senator JOHNSON. How do you propose we continue to work through the backlog, so we can ensure that not only is "no child left behind," but that no child dies or is critically injured in our schools?

Mr. MCCALEB. I expect to continue the policy of requiring all deficiencies that pose an imminent danger to the health and safely of students, staff, and public to be addressed immediately using whatever funds are available, and using the facilities emergency program funds to reimburse those funds, I believe the Facilities Repair and Improvement funding should continue to address schools with the most critical deficiencies. I plan to look at all funding mechanisms to accelerate the repair of these facilities.

Senator JOHNSON. In fiscal year 2001, the Senate was successful at providing tribal colleges with $15.5 million in construction funds from a variety of appropriations bills. Would you be supportive of this effort again in fiscal year 2002?

Mr. MCCALEB. I am fully supportive of the Department's fiscal year 2002 request for BIA which includes a $1-million increase for Tribally Controlled Community Colleges operations.

Senator DASCHLE. Secretary McCaleb, one of the greatest problems facing Indian country is the tremendous backlog of schools in need of funding for construction. This problem is particularly pronounced among tribes in the Midwest. My own State of South Dakota has 3 schools ranked in the top 15 on the BIA's Education Facilities Replacement Construction Priority List.

Crow Creek Middle School in Stephan, which is ranked well below several other South Dakota schools on the Priority List, recently had one of its walls cave in 8 inches. Several of the other walls are held up by braces. Since Crow Creek is ranked in the 40's on the Priority List, it could be 10 or 20 years before it receives funding for construction.

Under your direction, what actions will the administration and the BIA take to help alleviate this problem?

Mr. MCCALEB. I have been advised that many schools in South Dakota are in need of replacement or major rehabilitation and the administration is working with the BIA to fund the most dilapidated facilities as rapidly as funding will permit. It is my understanding that the Tiospa Zina Tribal School, St. Francis Indian School, and Enemy Swim Day School are a part of the current priority list of schools scheduled for replacement construction in fiscal year 2003 and fiscal year 2004, at the present funding level.

It is my understanding that the Crow Creek Middle School is a tribally owned and operated school and not on the BIA's School Facility inventory, so it doesn't receive annual operations and maintenance; nor does it qualify for Facilities Improvement and Repair [FIR] as a result of failing to meet health and safety codes and standards when the tribe originally placed it in operation. However, I am aware that the President's fiscal year 2001 budget has scheduled the Crow Creek to receive 11 portable classrooms, which may help to alleviate the situation there for the short term. I understand that the long term solution would be replacement of the middle and high school facilities and in this regard the school needs to apply for ranking in the latest national competition.

The BIA has advised me that the Crow Creek School was not ranked high enough in the 1999 competition to be placed on the present list of replacement schools. However, the school has an opportunity to submit a replacement school application. On June 11, 2001, the BIA published a Federal Register notice for schools to submit their applications for a new national priority ranking for replacement schools. The deadline for applications, I am told, is August 2001.

Senator AKAKA. Secretary Norton, in her testimony before this committee in February, mentioned that the education of Indian children will be a top priority of the Department of the Interior. What lessons have you learned about educating American Indian children in Oklahoma that you would apply to your broader educational responsibilities in your position as Assistant Secretary for Indian Affairs?

Mr. MCCALEB. First let me say that the education of Indian children will also be one of my top priorities as Assistant Secretary. In Oklahoma, Indian children are primarily educated in public schools; the few BIA schools are residential schools that deal with children that have special needs. While that organization works quite

well in Oklahoma, there are many reservations in other States where distance from public school facilities and other reasons support the continuation of BIA and tribally operated schools.

Senator DORGAN. According to a 1998 GAO report, BIA-funded schools, which are a Federal responsibility, are in worse condition than even inner-city public schools. The BIA estimates that there is a $2.1 billion school construction and repair backlog [$1.2 billion for replacement and $802 million in deferred maintenance.] Congress made some progress in fiscal year 2001 when we provided $293 million for school construction and repair, a $160-million increase over the fiscal year 2000 level. Will you continue to make this funding a top priority?

Mr. MCCALEB. The President, Secretary of the Interior, and I have made school facility replacement, repair, and rehabilitation among the highest priorities as reflected in our support of the fiscal year 2002 President's proposed budget. The fiscal year 2002 request includes level funding of $292.5 million for education construction. This means that, once confirmed, I intend to ensure that the fiscal year 2001 funding level is maintained and that there will be the same level of emphasis on the program as I've noted for the last 2 years.

Senator DORGAN. I am very pleased that the President's fiscal year 2002 budget includes funding for the replacement of the Ojibwa Indian School in Belcourt, ND, in accordance with the BIA's School Replacement Priority List. I recently learned that the BIA is considering requiring the Ojibwa Indian School to complete a reservation-wide education master plan before allowing planning on a new Ojibwa School to take place. I am not opposed to the development of a master plan but such an undertaking would likely take considerable time. Therefore, such a prerequisite would unfairly delay the planning and construction of the new Ojibwa School and would circumvent the BIA's own School Replacement Priority List. If confirmed, will you look into this situation and reconsider the BIA's plans to make the master plan a prerequisite for planning and construction of the Ojibwa School?

Mr. MCCALEB. Yes; I will look into the details of this situation, when confirmed. It is my understanding that the reason the BIA is interested in considering a master plan is to determine the current and future demographics on the reservation relative to the locations of the various schools, which now and in the future will serve the student population. The BIA understands a delay may result as a consequence of requesting a reservation-wide master plan. However, this is a large project and I believe that it is generally in our best interest to have a more complete picture of what's out there.

Senator DORGAN. I believe tribal colleges are a key to economic development and economic success for Native Americans. Tribally controlled colleges are dependent on Federal support because they are located on Federal trust territory and are only—at the most—25 years old, so they do not have an alumni base or financial reserves. The Tribal Colleges Act authorizes funding of $6,000 per enrolled full-time Indian student; but even with the increase in funding I fought for and won in fiscal year 2001, the colleges are funded at only $3,477 per student. Will you be supportive of efforts to increase tribal college funding to the authorized level of $6,000 per student?

Mr. MCCALEB. Tribal colleges are a key component of Indian education. I fully support the President's Budget for fiscal year 2002, which includes an increase of $1 million for the tribally controlled community colleges.

I will work with the colleges and through the budget process to secure adequate resources for the tribal colleges, I, too, support tribal colleges and believe they provide a critical education resource in the communities they serve.

Senator DORGAN. I also wanted to make you aware of an institution in Bismarck, ND called United Tribes Technical College. UTTC is the only intertribally controlled post secondary vocational education institution in the country, and the vocational and technical training its students receive is not provided at the tribally controlled community colleges. UTTC is not funded under the Tribally Controlled Colleges and Universities Act, but instead relies on funding appropriated separately by Congress in the Interior budget. In the past, some have proposed eliminating funding for UTTC, but Congress has always restored that funding. Will the Bureau continue to be supportive of UTTC by providing funding for it in your budget?

Mr. MCCALEB. I fully support the President's Budget for fiscal year 2002, which includes $2,491,000 for the United Tribes Technical College, an increase of $67,000 over the fiscal year 2001 level.

The CHAIRMAN. Do you agree that the State-tribal voluntary negotiation process yields the best results in finding ways to collect cigarette and gas taxes from non-Indians in Indian country?

Mr. MCCALEB. Yes; in Oklahoma, over 20 tribes have compacts with the State for cigarette and/or gasoline taxes. There will always be some disputes in any negotiation, but the negotiated process is always preferable.

The CHAIRMAN. Will you oppose efforts by certain Members of Congress to establish Federal sanctions against Indian tribes in tribal-State tax disputes, for example, Istook amendments?

Mr. MCCALEB. I believe that the negotiated process is preferable. I have not had an opportunity to review these amendments to determine whether they would help or hinder this process.

The CHAIRMAN. What changes do you believe are necessary to existing Federal laws to encourage economic development in Indian country?

Mr. MCCALEB. Once confirmed, I will review proposals designed to encourage economic development in Indian country. These include an authorization for tribes to issue tax free bonds, the same as States and local governments have for economic development projects, for example, buildings, equipment, and equity capital, et cetera. The current code limits such bonds to infrastructure projects only, for example, roads, power, water, sewer, et cetera.

Another proposal is tax credits for equity investments in tribally chartered enterprises or business development projects. Currently, there is a severe shortage of equity financing dollars available in Indian country—$5 billion as stated in the Department of Treasury Community Development Investment Fund draft report. The lack of equity funding is the major reason there is very limited business and enterprise development outside of gaming in Indian country.

I have no recommendations yet with respect to these proposals, but will consult with the Secretary, senior Department and administration officials, and tribal leaders on this issue upon confirmation.

The CHAIRMAN. In your testimony, you indicate that in order for tribal economies to be self-sustaining, tribes and the Federal Government should replicate the model of private investment. Will congressional action be needed to facilitate this private investment?

Mr. MCCALEB. There may be a need for congressional action. The real concern is not to limit tribal sovereignty.

Senator BAUCUS. According to 1990 statistics, it was revealed that the unemployment rate on the Montana Indian reservations averages roughly 60 percent and may drop to a low of 40 percent during the summer months. We have programs such as Welfare-to-Work to aid in addressing job skills, but without jobs to be placed into, these programs are often incomplete. My main goal as Senator from Montana is to bring good paying jobs into my home State, this includes focusing on our seven reservations.

What are your plans for creating jobs in Indian country?

How can we in Congress best assist your efforts to bring good paying jobs to Indian country?

Mr. MCCALEB. Upon confirmation, economic development will be a top priority. It is critical to remove barriers to economic success in Indian country. I will work with tribes, private industry, States and localities to develop initiatives to maximize opportunities for tribes and individuals.

The CHAIRMAN. Although 93 percent of all Americans have a phone in their home, only 68 percent of all Native Americans have phones in their home. To address this gap, the FCC has an Indian liaison for telecommunications deployment in Indian country and the Department of Commerce has provided technology grants to many Indian organizations and tribes through its Telecommunications Opportunity Program. Given the extreme disparity between telephone penetration, rates between Indian country and the rest of America, would you consider establishing a telecommunications desk within the BIA?

Mr. MCCALEB. I am aware that over the last 2 years the FCC has engaged in rulemaking proposals that target how universal service programs including wireless service, might be modified to increase telephone subscribership and decrease the digital divide in Indian country. It would not only be difficult, but not cost effective to staff an office within the BIA to mirror the expertise developed by the FCC liaison office. Upon confirmation, I will ask the Director of the Office of Economic Development to be the BIA contact to work with the FCC on this important mission for Indian country. This is consistent with one of the goals I outlined in my testimony, that of assisting tribes to develop infrastructures that attract businesses and economic opportunities to Indian country.

The CHAIRMAN. The BIA Office of Indian Education Programs has an exemplary program called Access Native America which has helped connect all BIA schools and the tribal colleges and universities to the Internet. To date, 194 schools have been

connected, many with high-speed T1 lines and some, in the remotest areas, by satellite.

Will you continue to support this project?

Are you willing to expand it to foster economic development in Indian country?

Mr. MCCALEB. Yes; I will continue the support for this program.

The Access Native America project provides connections to the Internet at BIA-funded elementary and secondary schools and at tribal colleges. As you stated, it has been a very successful project and is the on-ramp to the Internet for schools and Indian communities in some of the most remote locations in America. In support of this effort, the BIA's Office of Information Resources Management has convened a group made up of senior managers and tribal representatives to discuss telecommunications investment strategies and make recommendations on appropriate telecommunications investments.

The CHAIRMAN. The Department of the Interior's Alaska Tribal Technology Access Program [ATTAP] is providing free Internet access to the 227 federally recognized tribes in Alaska. The Department of the Interior began this project because of the prohibitive cost and enormous logistical challenges in supplying access to rural areas in Alaska. To date, 80 percent of the Alaska Native tribes use the ATTAP system at a rate of 200,000 minutes per month. ATTAP is not included in the fiscal year 2002 budget. ATTAP is the only means for most Alaska Natives to connect to the Internet because few Internet Service Providers [ISP] serve Alaska. What are your plans for this project?

Mr. MCCALEB. I understand that this program is a Department of the Interior initiative that originated outside of BIA. I am not familiar with this program and have not been briefed about it. However, I am supportive of this concept. Once confirmed, I will develop a plan for this project with other offices in the Department.

The CHAIRMAN. Despite recent efforts to provide additional resources to tribal law enforcement agencies, crime remains a serious problem in most of Indian country. As you know, the United States has a specific statutory obligation to address crime on Indian reservations. This obligation extends to both the Department of the Interior through the BIA and the Department of Justice. Despite the fact that coordination between these two agencies seems essential to adequately address the challenges in law enforcement, these agencies have only recently begun to work in coordination. Do you intend to continue this coordination?

Mr. MCCALEB. Yes; I am informed that both the Department of Justice [DOJ] and the BIA continue to combine efforts in combating the rising crime rate in Indian country. Upon confirmation, I will move to ensure that the BIA continues to concentrate on providing direct permanent resources to both the BIA and tribal programs, while the DOJ continues to concentrate on providing grants to tribes.

The CHAIRMAN. Prior to 1997, BIA and tribal chiefs of police reported to BIA agency superintendents, who rarely if ever had a law enforcement background. In 1997, the Department of the Interior consolidated its law enforcement administrative structure into a separate line and budgetary authority in BIA's Office of Law Enforcement Services [OLES]. Under the consolidation effort to OLES, tribal police now report to OLES in Albuquerque, which consists of career law enforcement personnel.

Do you support this separate line and budgetary authority in OLES?

Mr. MCCALEB. Yes; in response to a congressional mandate, the BIA restructured its law enforcement programs into five district offices across the Nation. Each district is under the direction of a professional law enforcement administrator, who must identify, analyze, and solve problems relevant to that district. Centralized guidance allows for streamlining procedures and standardized policies resulting in improved law enforcement services to the tribes.

The CHAIRMAN. The Office of Law Enforcement Services has consistently been underfunded. As a result, there are numerous vacant positions within the BIA law enforcement division which must be filled. Will you support increased funding for the BIA law enforcement division?

Do you have any other proposals for addressing the need for additional law enforcement officers, both BIA and tribal, in Indian country?

Mr. MCCALEB. Yes; a sufficient number of law enforcement officers who are properly trained and equipped is the key to attaining the BIA's long term goal of improving law enforcement services in Indian country. Increased funding for law enforcement is a high priority, and I fully support this endeavor. I intend to address recruitment activities and take whatever role may be appropriate to facilitate an increase in qualified applicants for these important positions.

The CHAIRMAN. In your written testimony, you supported privatization of detention facilities and having the facilities leased back to tribes. How much do you think it will cost the BIA to lease back the facilities?

Will you consult with Indian country to determine tribal support for the leasing back of facilities before you encourage the administration to support this proposal?

Mr. MCCALEB. Yes; I intend to consult with Indian country as much as possible on various criminal justice issues throughout my appointment. Once confirmed, I will ask the BIA to develop costs for these facilities.

The CHAIRMAN. Your written testimony indicates that the ability of tribes to issue tax free bonds to construct detention facilities. Regardless of whether Indian country wants to maintain control over detention facilities if Congress does not appropriate the requisite funds, do you have a proposal for funding the operation and maintenance of detention facilities?

Mr. MCCALEB. Generally, annual funding for operation and maintenance of detention facilities has been made available through the BIA budget formulation process. I would recommend that this policy continue.

The CHAIRMAN. Another concern that has been raised by Indian country is the need for the Federal Government to adopt consistent Federal standards for advising tribes on criminal cases and on the status or pending release of criminal defendants. Will you work with the Department of Justice and Indian tribes to address this matter?

Do you have any proposals on the appropriate method for addressing this matter?

Mr. MCCALEB. Although I have no specific proposal, after I am confirmed, I will examine this issue and will consult with the Department of Justice and Indian tribes on possible solutions.

The CHAIRMAN. Will you work with the Department of Justice to improve programs for tribal justice systems such as tribal courts, law enforcement, and detention facilities?

Mr. MCCALEB. Yes; I am informed that since 1997 both the BIA and DOJ have been working with tribal leaders to address law enforcement issues in Indian country. In the last 3 years both the BIA and DOJ have provided funding for programs exclusive to each other to ensure that Federal dollars will make the most impact. The additional funding provided to the BIA allowed it to provide additional police officers, detention officers, criminal investigators, and radio dispatchers in Indian country. BIA has replaced a number of vehicles in Indian country that have more than 100,000 miles on them.

I also understand that the BIA Office of Law Enforcement Services, in partnership with DOJ, is working jointly to establish new detention centers in Indian country.

I believe this is a good start and look forward to working with tribal leaders in addressing the needs and problems of tribal justice systems in Indian country.

The CHAIRMAN. The committee frequently hears allegations that Indian tribes that border Canada and Mexico do not have adequate law enforcement to prevent drug smuggling or to prevent illegal aliens from entering the United States. Do you have any proposals for ensuring that border tribes receive additional law enforcement personnel and funding? Are you willing to work with the DOJ to pursue funding from other programs so non-border tribes will not be adversely affected by a decrease in funding funneled to border tribes?

Mr. MCCALEB. Drug trafficking and alien smuggling continue to be major issues all along both international borders, including on adjacent Indian reservations. I understand that disbursement's of additional funds appropriated by Congress is contingent upon many factors including: Tribal population, reservation size, crime rate, proximity to major metropolitan areas, and tribal economic enterprises.

I am advised that the Department's Southwest Border Strategy is also addressing the broader issue of public and tribal lands adjacent to or near the Mexican border, and coordinating with other Federal, State, and local initiatives to address drug and undocumented alien smuggling. The information compiled from the Southwest Border Strategy will assist in developing a comprehensive plan to combat the smuggling of drugs/contraband and undocumented aliens on Indian reservations located not only adjacent to our border with Mexico, but also with Canada. I am cognizant and sensitive to the law enforcement needs of all Indian country and will work to ensure border initiatives will not adversely affect law enforcement funding for non-border tribes.

Senator WELLSTONE. Several tribes across the country, including one in my State of Minnesota, have received funds from the DOJ to construct detention centers on their reservations. It is my understanding that funds for operating these facilities is supposed to come from the Department of the Interior. However, the funds available, $5 million, appear to be inadequate to operate all of the facilities being constructed through the DOJ. There seems to be a disconnect between Justice's policy of funding new facilities and Interior's ability to operate them.

Do you believe that the funds proposed for fiscal year 2002 for the operation of tribal detention centers will be adequate to fully fund operations at existing facilities?

How much do you project that funding will have to be increased in future years to keep pace with new facilities currently being constructed with Justice grants?

How do you plan to better coordinate interdepartmental law enforcement initiatives such as this one?

Mr. MCCALEB. I completely support the President's fiscal year 2002 budget. The administration will evaluate its needs as it develops its budget next year. I look forward to consulting with officials from the DOJ on this program. However, addressing the specific issue of the adequacy of fiscal year 2002, the operations funding request should be sufficient for facilities that will be completed in fiscal year 2002. There is a lag between the time of facility construction and the need for operations funds to be appropriated.

Senator BAUCUS. Because of the high unemployment rates and with more and more Native Americans living in poverty, crime rates have increased dramatically with no additional funds to help in relieving this problem. A great concern of mine is law enforcement on our reservations. For example, the Blackfeet Indian Reservation is located on approximately 1,534,502 acres, and has a total of 10 communities with a population of 11,000 which includes enrolled and non-enrolled members. In the year 2000, the law enforcement facility had a total of 32,135 individuals incarcerated for different offenses ranging from misdemeanors to felony offenses. The facility was only built for a 45-person capacity but often houses as many as 100 individuals.

As Assistant Secretary of Indian Affairs, how do you intend to address law enforcement needs in Indian country?

Mr. MCCALEB. I understand that the BIA, OLES is working in coordination with many different departments and agencies to assist in improving the overall law enforcement services in Indian country. I will fully support that effort. Internally, OLES has implemented community policing philosophies throughout Indian country. I am committed to improving law enforcement services overall.

Senator DASCHLE. The BIA often lacks the manpower and resources to fight crime on reservations. Crime levels in Indian country are appallingly high. Homicide and other violent crime rates in many rural tribal areas have increased to levels that often surpass those in large American cities.

Would you support regional law enforcement training centers perhaps partnering with State law enforcement training academies as a means to increase police training, and what other measures would you endorse to secure more law enforcement officers on reservations in some of the most rural areas in the country?

Mr. MCCALEB. In my statement before your committee, I mentioned there are inadequate numbers of trained police officers to provide a safe and stable environment for the citizens of Indian country. These inadequate staffing levels are the result of a number of factors. The Indian Police Academy [IPA] at Artesia, NM, provides an Indian country-specific curriculum presented by American Indian instructors. I support the continued utilization of the IPA as the primary Indian country provider for basic law enforcement training. The IPA is currently funded and staffed at a level which is able to effectively meet the basic training needs of Indian country law enforcement programs. I also support partnerships with State training centers to develop regional Indian country training sites to facilitate various specialized and advanced training curricula.

The CHAIRMAN. Indian unemployment on some reservations is as high as 50 percent. Indian gaming has provided one of the only means of economic development that has proved effective. Tribes use gaining revenues to fund schools, day care, language and culture programs, roads, water systems, and other tribal government projects. Do you support the purpose of the Indian Gaming Regulatory Act [IGRA] to promote strong tribal governments, economic development, and tribal self-sufficiency?

Mr. MCCALEB. Yes; I support the purposes underlying the IGRA. Indian gaming has provided revenues to many tribes, and has allowed those tribal governments to provide governmental services in many areas that previously had been neglected.

The CHAIRMAN. Would you support the complete independence of the National Indian Gaming Commission from the Department of the Interior?

Mr. MCCALEB. The responsibility for the regulatory oversight of Indian gaming activities is vested in the National Indian Gaming Commission [NIGC] under the Indian Gaming Regulatory Act. Once confirmed, I look forward to forming a policy position in consultation with the Secretary.

The CHAIRMAN. Do you support the "State-Tribal alternative compact process" authority for the negotiations that are under way in Florida, Nebraska, and Washington State under the Secretarial Compact Regulations?

Mr. MCCALEB. As I understand it, the Department is currently defending litigation which challenges the authority of the Secretary to promulgate regulations that set forth a process pursuant to which class III gaming procedures may be adopted by the Department when compact negotiations have failed. I will work with the Solicitor in defense of the Secretary's authority.

The CHAIRMAN. As you know, the Supreme Court in the *Seminole* case ruled that suits against States to enforce their good faith obligation were barred by the States' 11th amendment immunity from suit. Do you support the Department's regulations at 25 C.F.R. 291, which establish an alternative mediation process to help tribes and States resolve compact impasses?

Mr. MCCALEB. As I indicated in my response to the previous question, I support the Department's efforts in defense of the pending litigation which challenges the Secretary's authority under the regulations.

The CHAIRMAN. Will you support the Secretarial process for negotiating class III gaming compacts when a State refuses to negotiate and involves its 11th amendment immunity from suits by Indian tribes?

Mr. MCCALEB. Please see my response to the last two questions. I believe it is, responsive to this question as well.

Senator REID. Please provide your views on Indian Gaming and the Indian Gaming Regulatory Act. In your opinion, does the act need to be amended? What would your recommendations be for Indian Gaming in Nevada?

Mr. MCCALEB. Indian gaming has been a valuable economic development tool for many Indian tribes. The Indian Gaming Regulatory Act [IGRA] appears to be broad enough to address adequately most situations. However, upon confirmation, I will consult with senior Departmental officials and the tribes to determine if recommendations for legislative changes are warranted.

Senator REID. What is the Department's position on S. 832, an Act to amend IGRA?

Mr. MCCALEB. I understand that the Department has yet to take a position on S. 832. I am not familiar enough with this legislation to formulate an opinion on it.

Senator REID. Several articles have appeared in the Boston Globe about the Mohegan Sun Casino and Resort. The Globe reports that the non-Indian developer has a share of the casino's profits in excess of the congressionally imposed ceiling by IGRA on such profits. Are developers and investors taking advantage of loopholes in IGRA to further profitmaking?

Mr. MCCALEB. Although I am not familiar with the NIGC's full jurisdiction, it appears that this question relates more to its policies and not to the Department's policies. I am unable to comment about the possible existence of the loopholes in IGRA to which you refer.

Senator REID. Do you support delegating the authority to approve Indian Gaming Compacts from the Secretary of the Interior to the Director of BIA? If so, please provide a detailed response as to why, and the appropriate legal authorization in support of your position.

Mr. MCCALEB. The authority to approve tribal-State compacts currently resides with the Assistant Secretary for Indian Affairs by delegation from the Secretary. I am unaware of any reason why this delegation should be changed.

The CHAIRMAN. Please describe how the Department of the Interior can address and remove impediments to the development of energy sources on Indian lands, such as the lack of access to transmission lines, lack of uniform interconnection standards, a streamlined approval process for the grant of rights-of-way over Federal lands for transmission, enhanced grant and loan programs for tribal energy projects, streamlined regulatory, siting, and approval of energy development projects on Indian lands, and investment and production tax incentives that take into account a tribal government's sovereign status?

Mr. MCCALEB. Removing some impediments to the development of Indian energy sources will take time. There are energy resources on many of the reservations that have not been quantified, as evidenced by the production of resources on surrounding or contiguous Federal, State and private lands. I intend to look into the BIA's energy assessment program to determine if necessary funding for increased assessment and quantification of tribal and individual Indian resources is needed to bring them in line with other Federal resource inventories. I also intend to examine the viability of the BIA's guaranteed loan program with a possibility of creating priorities for energy resource tribes that need financial support for tribal generation capacity. The President's National Energy Policy directs that we identify impediments

to energy development. If confirmed, I am committed to working with the BIA to identify such impediments.

The CHAIRMAN. What efforts can the Department of the Interior undertake to better coordinate Federal programs and authorities to strengthen the ability of tribal governments to work effectively with the private sector in the energy resource development arena?

Mr. MCCALEB. A number of Federal agencies share responsibility for energy resource development on Indian lands with the BIA. The BIA should stand to assume a role in the National Energy Policy to advance dependable, affordable, and the environmentally responsible production of energy on Indian lands. One of my priorities will be to coordinate with the various Departments and agencies to provide training and other activities aimed at educating tribal representatives regarding energy project management. I also intend to examine the BIA's existing statutory and regulatory authority for development on Indian lands and to propose the necessary legislative and regulatory framework to increase tribal authority to engage in energy agreements, to prioritize the BIA's approval of all required documents that are necessary to advance energy related projects, and to work with tribal governments to develop and approve viable business plans that create favorable business climates for industry.

The CHAIRMAN. The President recently issued an Executive order directing Federal agencies to expedite the review of permits for energy-related projects. Including tribal representation on this task force would ensure that Federal agencies will have the benefit of tribal government input and expertise when developing mechanisms to expedite the review of permitting on Indian lands. Title 2, Section 1535 of the United States Code provides an exemption to the Federal Advisory Committee Act and permits Federal agencies to meet with State, local, and tribal governments regarding Federal programs that are intergovernmental in nature, or to provide input into the development of regulatory proposals. Will you support and advocate for tribal representation on the interagency task force that will be formed pursuant to this Executive order?

Mr. MCCALEB. I will support and advocate for tribal representation on the interagency task force that will be formed pursuant to the Executive order.

The CHAIRMAN. Would you support amendments to the Federal Land Policy and Management Act [FLPMA] to establish a presumption that rights-of-way over certain non-sensitive Federal lands for transmission lines serving electric generation facilities on Indian lands are in the public interest?

Mr. MCCALEB. One of the mandates of the President's National Energy Policy is that we will look at ways to expedite the process for securing rights-of-way over Federal lands where needed to increase energy transmission. I certainly expect that transmission lines serving facilities on Indian lands will benefit from that policy.

The CHAIRMAN. Will you request funding in the Bureau of Indian Affair's fiscal year 2003 budget request to fund tribal energy resource development projects and capacity building programs to permit Indian tribes to develop their administrative capacities to analyze, approve and administer energy resource development projects?

Mr. MCCALEB. I understand that the fiscal year 2003 budget formulation has begun within the Department. While I am unsure of the parameters of the recommendations that are being formulated, I am inclined to support proposed increased funding for energy and mineral related programs, including assistance to Tribes to develop their administrative capacities to analyze, approve, and administer energy resource development projects.

Senator BAUCUS. In my home State of Montana, we have two reservations, the Blackfeet and the Fort Peck, that are working on wind energy projects and are eager to be a part of our Nation's energy solution. Additionally, the Crow Reservation in Montana has an abundance of prime coal reserves that the tribe is interested in utilizing as a part of the solution to the Nation's energy deficit. However, to date, these resources have not been included in our Nation's energy inventory.

Given the energy crisis that the United States finds itself in and knowing the abundance of energy resources—renewable and non-renewable—that exist on reservations, how do you propose to work with tribes that are eager to be a solution to the energy problem in the United States?

Mr. MCCALEB. As I stated above, we have reason to believe that many tribes have a great potential for energy generation from a variety of sources, both renewable, as in the case of the wind source, and non-renewable coal reserves. We need to assist energy resource tribes in assessing the quantity and quality of the resources, work side-by-side as partners in determining the desires of the tribes for exploration, and assist tribes in developing adequate business plans that attract private industry investment.

The CHAIRMAN. The committee has held two oversight hearings on the Native American Graves Protection and Repatriation Act [NAGPRA] implementation and the most serious concerns that were expressed are the Department of the Interior's delegation of authority to the National Park Service to administer the program and the inadequate staffing and funding to carryout the provisions of the act. Do you support moving the NAGPRA program to a more responsive and neutral organizational unit within the Department?

Mr. MCCALEB. I support a NAGPRA program that is responsive and fair. However, at this time I have neither enough knowledge of NAGPRA operational requirements nor sufficient Departmental organization options to express an opinion. I will review this issue upon confirmation.

Senator REID. Please provide your views on the importance of saving newly discovered archaeological sites and their artifacts that document the earliest Native American settlements in our Nation.

Mr. MCCALEB. Preservation of archaeological sites and artifacts is an important matter. Upon confirmation, I am committed to gaining a deeper understanding of Departmental responsibility and other aspects of this issue.

Senator REID. Please comment on the kind of support, including State and Federal, that would be important to have in place for the Department of the Interior to play a role in saving Native American archaeological sites.

Mr. MCCALEB. Given my response to the previous question, it would be premature to comment at this time.

Senator REID. Please advise the committee as to whether you would be supportive of the Federal Government directly assisting local, governments with funding to help secure sites of early Native American settlements which have demonstrable national significance.

Mr. MCCALEB. It would be premature at this time to comment. I look forward to working with your staff to gain a better understanding of this matter.

Senator REID. Please provide your thoughts on how the Federal Government's assistance in securing Native American archaeological sites and assisting with the development of interpretive centers and museums can help educate Americans about our Nation's heritage.

Mr. MCCALEB. As I have indicated in my previous answers, the issues related to archaeological sites are important. I look forward to examining this issues closely upon confirmation.

The CHAIRMAN. Would you support greater Federal recognition and support for the development and enhancement of tribal management capabilities in the area of fish and wildlife management?

Mr. MCCALEB. I believe that natural resources are best managed through consultation among local, State, tribal, and Federal resource management agencies, as appropriate. The protection, enhancement, and where necessary, restoration of tribal natural resources are important spiritual, cultural, and economic factors to Indian tribes.

The CHAIRMAN. Would you support the development of legislation to establish trust standards for the Government's responsibilities in the area of fish and wildlife management that would provide for full tribal government participation in the management of fisheries and wildlife on Indian lands and within ceded territories?

Mr. MCCALEB. I would be happy to review any legislative proposal in conjunction with the Department and the administration.

The CHAIRMAN. Reports completed over the last decade would indicate that there are hundreds of open dumps on Indian lands that will require the cooperative efforts of the Bureau of Indian Affairs, the Indian Health Service, and the Environmental Protection Agency, along with affected tribes, to achieve compliance with the requirements of the Resource Conservation and Recovery Act.

In many instances, Federal agencies with a presence on reservations contribute their waste to these dumps.

Are you committed to requesting sufficient funds to address the solid waste challenges on Indian lands?

Mr. MCCALEB. I understand that in each of the last several years, the Bureau of Indian Affairs has requested sufficient funds to increase dramatically its efforts to close open dumps on Indian lands. I am not familiar with the issue in detail, but upon confirmation, I look forward to defining the size and scope of the problem.

The CHAIRMAN. Currently, there are proposed regulations concerning land into trust which the BIA is requesting further comments. Are you willing to meet with tribes as soon as possible to learn more tribal perspective of the regulations?

Mr. MCCALEB. The effective date of the final acquisition regulations has been delayed until August 13, 2001, to provide an opportunity for the Department to review and evaluate comments received as of June 15, 2001. In order to preserve the integ-

rity of the deliberative process, it would be inappropriate to commit to tribal meetings until all comments have been analyzed. However, as a general principle, I remain willing to meet with tribes where the rulemaking process will not be compromised.

The CHAIRMAN. When Indian tribes petition the Secretary of the Interior to take land into trust, they are typically doing so because they are attempting to re-acquire the aboriginal lands which were taken from them. Tribes also seek land for housing, schools, clinics, and agriculture or other economic development. Do you support tribal efforts to acquire trust land on or near their reservations?

Mr. MCCALEB. Yes.

The CHAIRMAN. What are your views on the acquisition of lands and the taking of such lands into trust for the purposes of gaming under section 20 of the Indian Gaming Regulatory Act?

Mr. MCCALEB. I support Indian tribes' efforts to operate gaming establishments on trust lands where they have satisfied the requirements of all applicable laws and regulations, including the requirements of 25 CFR Part 151, and the requirements of Section 20 of IGRA.

The CHAIRMAN. Do you support the proposed regulations on the process for the taking of land-into-trust for Indian tribes?

Mr. MCCALEB. As I stated previously, the proposed regulations are still under review. It would be premature of me to form a final opinion of the regulations before studying all of the comments and views provided to the Department on those regulations. I support the concept that the process must be specific and informational so that tribes will understand the factors that will be considered by the Secretary when a tribal application is received.

Chairman INOUYE. The United States has a trust responsibility to promote the best interests of Indian tribes and the Department of the Interior must exercise independent judgment concerning trust land acquisitions. Do you believe that the BIA should defer to State and local governments concerning trust land decisions?

Mr. MCCALEB. As I stated earlier, the final acquisition regulations are still under review. Those pending regulations include a mechanism for consideration of State and local interests, but did not defer to those interests. I believe that it would be premature to comment on the merits until I have had an opportunity to review all of the comments that have been entered into the formal record.

The CHAIRMAN. Will you request an extension beyond August 13, 2001, for implementing the trust land acquisition regulations, if needed?

Mr. MCCALEB. The Department advised me that the deadline for public comments on these regulations closed on June 15, 2001. Upon completion of a deliberative review and analysis of the comments, the Department will decide how best to proceed with the regulation.

The CHAIRMAN. In considering the proper implementation of the trust land acquisition regulations, will your recommendations reflect the fact that most land into trust requests are not controversial, do not involve gaming, and serve needed tribal housing, environment, and infrastructure needs?

Mr. MCCALEB. Unfortunately, the proper implementation of the regulations must be based upon an analysis of the factors set out in the regulations. I do not believe that the fact that some decisions to take land into trust are less controversial than others is a part of the analysis under the regulations.

The CHAIRMAN. Do you believe that any formal concurrence role by State and local governments in decisions involving Indian land acquisition is inconsistent with the Indian Reorganization Act?

Mr. MCCALEB. The Indian Reorganization Act provides the Secretary with broad discretion to take land into trust. The statute does not speak to a role by State and local governments; however, the Secretary has the discretion, through regulations, to design the process for taking land into trust.

The CHAIRMAN. Do you favor sampling methods as a means of gathering information regarding losses due to mismanagement of Indian trust accounts?

Mr. MCCALEB. I am generally aware that the Federal Court has recently reiterated the Department's duty to complete an historical accounting. As I understand it, the Court has appropriately left it to the discretion of the Department to design a method for an historical accounting that meets its fiduciary duties. The Department's historical accounting plan must be guided by appropriate fiduciary standards and should explore a wide range of approaches, not just statistical sampling.

The CHAIRMAN. Will you consult with Indian tribes prior to taking actions that would re-allocate trust related responsibilities between the BIA and the Office of Special Trustee?

Mr. MCCALEB. If the Department were to consider permanently reorganizing the BIA to remove trust-related functions, either to the Office of Special Trustee or outside the Department, the Department would consult with Indian tribes.

The CHAIRMAN. Are you amenable to initiating settlement discussions with the Cobell plaintiffs? From what appropriations source would the Department of the Interior seek settlement funds?

Mr. MCCALEB. Yes; it is my belief that a negotiated just and equitable settlement is always preferable to protracted litigation. I look forward to working with the appropriate parties to pursue settlement discussions with the plaintiffs. If funds are needed for settlement, I believe the Department should explore all options as to the source of funds.

The CHAIRMAN. Could you report back to the committee on a realistic schedule for implementing TAAMS?

Mr. MCCALEB. The BIA has informed me that it has deployed and is using the title portion of TAAMS in four of its regions to record current title activity. Since last fall, the BIA has been intensively completing the software design for the realty function, which will provide the majority of the TAAMS ability to track leasing activities, including agricultural and commercial leases, mineral leases, and rights of way. The BIA recently completed a comprehensive user's test of the TAAMS leasing module and is preparing a final report of the test results along with recommendations for further development and eventual deployment. Additionally, the General Accounting Office recently completed an analysis of the TAAMS project and is preparing its final report. After fully considering these reports and all other appropriate factors, the Department will make a decision on a realistic schedule for full TAAMS deployment and implementation. I will work with the committee to ensure it is fully informed of our progress.

My goal for all aspects of trust reform is to take appropriate actions as expeditiously as is consistent with accuracy, authenticity, and equity.

Senator JOHNSON. What is the justification for creating another regional real estate services and general trust activity oversight office in Denver, CO?

Mr. MCCALEB. I am advised that for some time now, Departmental senior management officials and tribal representatives have been analyzing the BIA's management of trust assets as part of the trust reform initiatives. As a result of this review, the BIA has identified a great need for training BIA real estate services field staff and other key trust management personnel to support the implementation of the Trust Asset Accounting Management System [TAAMS] operations, and other mandates arising from the Department's trust reform initiatives. Top BIA management officials have begun to study the feasibility of creating a technical trust training and support office to develop best business practice rules, agency real estate services handbooks, and a curriculum to teach standard real estate procedures. Additionally such a center could provide technical assistance to BIA and tribal offices in trust resource management programs. The center concept will not duplicate regional office trust services, nor will it duplicate ary oversight functions of the BIA Central Office. The location of such a center has not been determined, but the western part of the United States is clearly the most logical choice.

Senator JOHNSON. Is there a plan that can be shared with affected tribes?

Mr. MCCALEB. There is no adopted plan. The scope of such a plan is still being analyzed.

Senator JOHNSON. Will there be consultations with affected tribes?

Mr. MCCALEB. The need to have an adequate technical workforce to support TAAMS and other trust reform initiatives, such as the appraising functions, is part of the trust reform effort. Because many of the tribes enter into contracts or compacts for BIA realty work, the tribes will be a part of this effort, and consultations will ensue with affected tribes.

Senator JOHNSON. Will this new oversight office be in addition to current oversight offices?

Mr. MCCALEB. As mentioned previously, the center is not envisioned to duplicate current oversight offices. The center concept does not include additional oversight, but rather monitoring the operation of trust resource programs to insure that the TAAMS initiative is not jeopardized and to insure that the adherence to the "best practices" business rule is consistent.

Senator JOHNSON. Has a comprehensive analysis been performed that shows the responsibilities, functions, workload data and accomplishments for the Office of American Indian Trust and the Office of the Special Trustee Risk Management Office functions to ensure there is no overlap of functions with this new oversight office?

Mr. MCCALEB. I have been advised that no comprehensive analysis has been performed. As stated earlier, the operations of the center are in the conceptual stage

of planning. However, oversight and monitoring functions committed to other Departmental offices that have been instituted under existing legal authorities, such as the American Indian Trust Fund Management Reform Act, are being considered and will not be duplicated.

Senator JOHNSON. How were the BIA regional offices fiscal year 2001 assessments determined?

Mr. MCCALEB. I have been advised that, in October 2000, after the Tribal Priority Allocations from the increases appropriated by Congress for trust resource management had been distributed to the tribes, the BIA Director, Office of Trust Responsibilities [OTR], polled the regions for their ideas on factors to be considered in distributing the fiscal year 2001 increase for regional office operations. A distribution plan was initially developed that first included an equal distribution of a percentage of the increase to each region, then with the remaining funds, a formula was developed that took into account the number of tribal trust acres, number of individual tracts, and the number and kinds of transactions administered by the various regions. Early in 2001, before the funding was made available, the BIA trust managers engaged in the realty module design stage of TAAMS concluded that there was a need to make realty practices uniform nationwide for efficiency and for TAAMS cost effectiveness. In anticipation of immediate training needs during fiscal year 2001, each region was assessed one-third of the trust management resource increase it had been targeted to receive to support field training needs, technical assistance to BIA and tribes, and the development of uniform business practice rules.

Senator JOHNSON. What is the total amount required to fund this new oversight office?

Mr. MCCALEB. I am advised that total amount has not yet been determined.

Senator JOHNSON. Has a cost-benefit analysis been performed for this new office?

Mr. MCCALEB. No; once the concept is fully developed, such an analysis will be in order.

Senator JOHNSON. Has a formula been developed to justify each regional office contribution?

Mr. MCCALEB. I am advised that only the initial one third of each region's increase for regional operations was assessed to support development of center plans and immediate training needs. A more equitable formula is anticipated in fiscal year 2002 based upon the amount of trust resource management work that is performed by each region.

Senator JOHNSON. Has a budget impact analysis been performed for each regional office?

Mr. MCCALEB. I am advised that no budget impact analysis has been performed because the funding was not included in the regional offices' base funding. Thus, there was no budget impact to the region offices.

Senator JOHNSON. Has a program impact analysis been performed for each regional office?

Mr. MCCALEB. As stated in my response to the last question the funding for the center was not a part of the regional offices' base funding and, thus, no funding had been committed to any real estate services programs.

Senator MCCAIN. The administration recently reported it will not seek to appeal a recent ruling by the U.S. Court of Appeals on the management of Indian trust fund accounts. How will you work with the Special Trustee to ensure that the agency will responsibly rectify accounting procedures for mismanaged Indian trust fund accounts?

Mr. MCCALEB. I am informed that there are several areas where BIA and the Office of Trust Funds Management [OTFM] share responsibilities for trust fund accounting. I will work closely with the Special Trustee to ensure that the new systems and procedures are put in place to provide for proper trust fund accounting are successful.

The BIA is responsible for billing and collecting trust income from leases, permits, timber sales, and other revenue-producing activities. BIA then transfers these collections to OTFM, an office under the direction of the Special Trustee, for deposit into trust accounts, subsequent investment and disbursements. Through the deployment of the Trust Account and Asset Management System [TAAMS], BIA will have its first automated accounts receivable system to support the management of trust fund collections. This system will interface with OTFM's Trust Fund Accounting System, thus, substantially increase the timeliness of deposits while reducing the risk of human error in crediting the appropriate amounts to the proper accounts.

I will work in the spirit of cooperation and shared resources on a goal-oriented project management schedule.

Senator REID. Just this year, the *Cobell* v. *DOI* case was decided in Ms. Cobell's favor. What is your position on DOI's Indian Trust Fund accountability?

Mr. MCCALEB. I am committed to implementing a comprehensive, effective and efficient trust management program. In carrying out the management and oversight of the Indian trust funds, the Secretary has a fiduciary responsibility to ensure that trust accounts are properly maintained, invested, and reported in accordance with the American Indian Trust Fund Management Reform Act of 1994, Congressional action, and other applicable laws.

Senator REID. Are you familiar with TAAMS? Will TAAMS be successful in sorting out the Trust Fund accounts in order to satisfy all concerned, and provide fair and accurate accounting in support of accurate funds distribution?

Mr. MCCALEB. I am generally familiar with TAAMS. It is my hope that TAAMS will greatly advance the accuracy, efficiency, and uniformity by which the Department performs its management of all Indian trust assets. This system is intended to interface with the Office of Trust Funds Management's Trust Fund Accounting System. This system interface will substantially increase the timeliness of trust fund deposits while reducing the risk of human error in crediting the appropriate amounts to the proper accounts.

The CHAIRMAN. Do you support the proposition that the relationship between the Federal Government and Indian tribes is a political relationship, and that legislation and regulations enacted for the benefit of Indian tribes are based on this relationship and not on a racial basis?

Mr. MCCALEB. Yes; membership in an Indian tribe is a bilateral political relationship between the individual and his tribal government. The relationship of the United States to Indian tribes is one of government-to-government. The United States Supreme Court has made it very clear in upholding the constitutionality of the statutes enacted for the benefit of Indians that they are based on this political relationship, not race. See *Morton* v. *Mancari,* 417 U.S. 535 (1974).

The CHAIRMAN. What is your position on amending the Nationality Law of 1952 to recognize all members of the Tohono O'odham Nation, including those who are Mexican citizens, as U.S. citizens?

Mr. MCCALEB. Upon confirmation I will consult with the Solicitor's Office on this legal issue.

Senator DASCHLE. Of particular concern to tribes in the Midwest is the question the Federal Government's relationship with both direct service and self-governance tribes. How would you maintain the delicate balance between these two types of tribes, and will you support tribes in the Midwest who prefer the direct service relationship on a level playing field in terms of funding?

Mr. MCCALEB. The Self-Governance statute permits those tribes that elect to establish their own priorities and goals to do so, but does not alter the government-to-government relationship with the Federal Government. Those tribes that prefer to continue to receive direct services from the BIA may not have their services diminished when another tribe at the agency or in the region elects to become a self-governance tribe. The law provides that all tribes must be equally treated.

Senator DORGAN. The United States has a government-to-government relationship with tribes that should be honored. In recent it years, there have been a number of attempts to attach legislative "riders" to appropriations bills that would be detrimental to tribal sovereignty, such as efforts to impose a moratorium on tribal 638 contracts and compacts, to re-distribute Tribal Priority Allocations [TPA], or to limit tribal sovereign immunity. As Assistant Secretary for Indian Affairs, will you oppose efforts to erode tribal sovereignty?

Mr. MCCALEB. It is my understanding that past moratorium riders have been attached to appropriations in order to allow time to resolve the contract support issues, not to erode tribal sovereignty. Other types of riders, such as not being able to reprogram realty or law enforcement funding, are reflective of congressional priorities for these types of programs. The United States, as trustee, has responsibilities to individual Indians to provide services that affect landownership and their health and safety. Tribes generally do not oppose these types of riders, as they also prioritize realty and law enforcement.

I support tribal sovereignty.

Senator DORGAN. The tribal nations in my State are concerned about the Federal Government's willingness to be of assistance to them, given the history of trust relations between the Government and tribal nations. One of the fundamental problems hindering relations between Indian tribes and the Federal Government is an inherent lack of trust. How do you propose to build trust between the tribes and the BIA?

Mr. MCCALEB. The BIA historically has been committed to a tribal consultation policy. As a result, the tribes are included in the BIA's budget process and the formulation of new regulations. We have found that the tribes' increased involvement in this process has built trust among BIA staff and the tribes. Cooperation between

all branches of the Federal Government in partnership with the tribes is essential to build and maintain trust.

Senator DORGAN. BIA relations with tribes: In the past, you have been critical of the BIA, saying that it has a conflicting mission. On one hand, it serves as a trustee for individual and tribal assets, and on the other hand, it advocates tribal self-determination. How do you define the relationship between the tribes and the BIA?

Mr. MCCALEB. I think that, BIA, or the "Indian Service" as I prefer to call it, has made great progress in redefining its relationship with the tribes. BIA's role as trustee is more responsive to the tribes' needs and requests. As a result, BIA and the tribes have formed a more cohesive forum? for discussion of actions involving or affecting individual Indians and tribes. The Indian Self-Determination Act specifically provides that the act does not diminish or waive the Secretary's trust responsibility while at the same time promotes self-determination. I believe that these are not conflicting missions.

Senator JOHNSON What is your familiarity with large, land-based, and or treaty tribes?

Mr. MCCALEB. I am aware that there has been a movement among tribes with considerable land bases to organize to address the unique concerns of these tribes. I will be available to meet with these tribes, as well as other tribal consortia and organizations, to discuss common problems and to attempt to arrive at solutions.

The CHAIRMAN. As you know there are over 150 petitions still pending at the BIA and many have already been waiting years for a final determination. Last year, in this committee, we conducted a hearing on the issue and former Assistant Secretary Kevin Gover stated that the system and process was broken. Do you also hold that view and if so, what are your current plans for addressing this problem?

Mr. MCCALEB. As I stated during the hearing, while I have limited knowledge of the issues surrounding the BIA acknowledgment process, I am committed to a full review and assessment of the program operations. I am aware that the General Accounting Office [GAO] is reviewing the Department's acknowledgment process. Once the GAO issues their report, I intend to review it carefully as well—before making any decisions or recommendations. I have also been advised that the workload of the BIA Federal acknowledgment office has significantly increased in recent years in the number of petitions, FOIA requests, decisions, appeals, and litigation, yet the staffing level has remained relatively static.

The CHAIRMAN. Last year in this committee, BIA officials explained that only $900,000 was being allocated annually to the Branch of Acknowledgment and Research. They did not feel this was sufficient. In fact, they suggested that $1.5 million was needed. Do you believe this amount is sufficient to adequately fund the BAR?

Mr. MCCALEB. At this time I do not have enough knowledge of this Branch's funding situation to offer a judgment about its sufficiency. However, I understand that the GAO is preparing a report which may address the resource funding issue along with other issues regarding workload analysis. I await the results of the report to fully inform me on this issue.

Senator DORGAN. Highway 6 on the Spirit Lake Reservation in North Dakota is partially under water I because of the rising levels field nearby Devils Lake. This is an important transportation route on the Reservation and ERFO [Emergency Roads Federally Owned] are desperately needed to help repair this road. Will you look into this situation and try to identify emergency funds for this purpose?

Mr. MCCALEB. I am aware of the rising lake levels at Spirit Lake. I am advised that the reports from the field indicate that Route 6 is eligible for ERFO funding through the Federal Highway Administration. BIA has issued a letter of contract to the Spirit Lake Nation to proceed with a permanent engineering design for raising the roadway grade for Route 6.

The CHAIRMAN. Do you agree that the BIA has a critical role and a challenging responsibility to assist tribes in preventing alcohol and substance abuse, while the Indian Health Service places a priority on their funding on alcohol and substance abuse treatment and rehabilitation?

Mr. MCCALEB. Yes; I agree. The BIA has a challenging responsibility in assisting tribes with their efforts to prevent alcohol and substance abuse in their communities and must work with the Indian Health Service as it exercises its treatment and rehabilitation responsibility. There is within the Assistant Secretary's office an Office of Alcohol and Substance Abuse Prevention that is currently designed to serve as the policy arm on alcohol and substance abuse prevention. I will review the current activities of that office and see how we can strengthen our prevention responsibility.

The CHAIRMAN. Do you believe that the $397,000 allocated by the BIA for alcohol and substance abuse prevention is adequate to allow Indian tribes to address prevention needs of alcohol and substance abuse in Indian country?

Mr. MCCALEB. I support the President's request for alcohol and substance abuse prevention. Upon confirmation, I will review this and other funding allocations to address the need for program funding throughout Indian country, and make any necessary adjustments within the overall budget framework of the administration.

The CHAIRMAN. To what extent would you commit your funding priority to alcohol and substance abuse prevention to begin implementing the responsibility of the BIA, as mandated in the Indian Alcohol and Substance Abuse Prevention Act of 1986, including its grant responsibility to support tribal efforts for prevention?

Mr. MCCALEB. I will continue to support the work of the Office of Alcohol and Substance Abuse Prevention. I will review the grant authority in the course of making a determination of how the mandates listed within the act fit within the funding priorities of the BIA budget allocation.

The CHAIRMAN. Do you have any proposals to assist Indian tribes in their efforts to prevent the problem of alcohol and substance abuse in Indian country, that is, "to catch the children and youth before they need treatment and/or rehabilitation" or before they need to build more jails or halfway houses?

Mr. MCCALEB. I believe the greatest opportunity for a sustainable success in alcohol and substance abuse is in educational programs directed toward young people and that our limited resources should be directed in that area. I am advised that the Office of Alcohol and Substance Abuse Prevention has developed a 2-year demonstration plan that identifies a strategy to assist Indian tribes in their efforts to prevent the problem of alcohol and substance abuse in Indian country. I will study the plan and consult with tribal leaders on how to achieve the goal of assisting tribes in their efforts to reduce the incidence and prevalence of alcohol and substance abuse in Indian country.

The CHAIRMAN. It is the committee's understanding that the Department of the Interior entered into an agreement with the National Congress of American Indians to assist tribal leaders in establishing a task force that would serve as the National Indian Advisory Board on Alcohol and Substance Abuse Prevention to advise the Assistant Secretary of Indian Affairs on policy issues related to alcohol and substance abuse prevention. The committee also understands that various Indian tribes, including the Task Force, have asked the Assistant Secretary for funding support for the Task Force to conduct an annual Tribal Leaders' Summit on Alcohol and Substance Abuse. Do you support funding for the Task Force and for the annual summits?

Mr. MCCALEB. I have been advised that the Office of Alcohol and Substance Abuse Prevention has, in the past year, received proposals from tribes and intertribal organizations to conduct tribal leaders' summits on alcohol and substance abuse at the regional and national level. I am inclined to support the task force and periodic summits. I will review the BIA's budget allocation in consideration of this interest.

The CHAIRMAN. Some tribes have been receiving grant funds for up to 3 years from the Center for Substance Abuse Prevention, These grants, however, are closed out after 3 years with no continuity. Indian tribes have requested the Office of Alcohol and Substance Abuse Prevention to provide continuity for these grant programs. How would you propose to establish a more secured funding program on alcohol and substance abuse prevention for Indian country?

Mr. MCCALEB. The Office of Alcohol and Substance Abuse Prevention is currently working with the Center for Substance Abuse Prevention Program in the Department of Health and Human Services [HHS] to address this need. I believe we should continue to work with HHS in reviewing their authorizing statute and BIA's authority that will respond to these problems.

The CHAIRMAN. I recently Introduced the Western Shoshone Claims Distribution Act in May 2001. The bill will provide for the per capita distribution of the Docket 326-K judgment award, and the establishment of an Education Trust Fund with the judgment awards from Dockets 326 A and 326 C.

What is your position on Indian Judgment Claims Distribution, and impacts on claims to Native American homelands?

Mr. MCCALEB. I am not familiar with the proposed legislation, but will review it. With regard to my position on the impacts an Indian judgment distribution have on claims to Indian homelands, I understand judgment claim distributions usually absolve, or settle, the claims.

Senator DORGAN. On November 6, 2000, President Clinton signed an Executive order to help insure better Federal agency consultation and coordination with Indian tribes when developing policies, regulations, et cetera affecting Indian country, as is consistent with our long-held Federal policy of Indian self-determination. As the Assistant Secretary for Indian Affairs, will you abide by the spirit of this Execu-

tive order by consulting with tribes on the policies and regulations developed by the Department of the Interior that affect them?

Mr. MCCALEB. I will work to ensure that the Department engages Indian tribes in meaningful consultation in a manner that is consistent with our trust responsibilities. I will also work to carry out the Secretary's commitment to consult, communicate, and collaborate, in a spirit of conservation with Indian tribes.

Senator DORGAN. We have made some progress, especially in fiscal year 2001, in meeting, the funding needs of Indian country. In fact, we increased funding by $1.1 billion government-wide for Indian programs in fiscal year 2001. However, this progress is merely undoing the funding cuts to Indian programs that occurred during the Reagan and Bush years. In 1979, Federal funding for Indian programs peaked at $4.4 billion. By 1989, Federal funding for Indian programs had fallen to $2.5 billion [in 1990 constant dollars]. Great needs continue to exist, however. The poverty rate for Native Americans is 26 percent, they are 5.3 times more likely to die of tuberculosis, 3.3 times more likely to die of diabetes, and 3 times more likely to die in an accident, and the schools young Indian children who attend are among the worst in the Nation. Given the great need that exists and the Federal trust responsibility we have to Indian people, will you submit budgets for the Bureau of Indian Affairs that adequately and accurately reflect the needs in Indian country?

Mr. MCCALEB. I will contribute the efforts of the BIA to work in partnership with tribes on funding needs through the BIA/Tribal Budget Advisory Council. The Council is comprised of tribal leaders and BIA officials from each of the BIA's 12 Regions who meet quarterly to work jointly on budgetary issues. Based on the information gathered from these meetings and other sources, I will make every effort to ensure that the BIA has a budget that adequately addresses the needs of Indian country.

Senator MCCAIN. The fiscal year 2002 budget represents about a 3-percent increase from last year's budget. How will you begin to work with the tribes in the agency's future budget developments to ensure that the highest priorities and needs of tribal communities are funded?

Mr. MCCALEB. The BIA Budget is formulated in coordination with the Department and the administration. I intend to work with tribal representatives, BIA staff, and tribal liaison staff in other departments and agencies to identify tribal priorities.

Senator MCCAIN. Do you support the process of negotiated rulemaking with Indian tribes in order to revise or promulgate changes to BIA policies?

Mr. MCCALEB. Although negotiated rulemaking with tribes may be appropriate in certain circumstances, this process should be utilized on a case-by-case basis.

Senator MCCAIN. What will be your initial priorities as the new Assistant Secretary, if confirmed?

Mr. MCCALEB. As I identified during my confirmation hearing, my initial priorities will be trust reform and trust management, increasing economic opportunities on Indian reservations, the education of Indian children, funding for BIA-schools that are in need of replacement, and public safety. I believe these will all work together to improve the quality of life in Indian country.

Senator MCCAIN. One of the primary goals stated by this administration is to provide children, including Indian children, with the best possible education and extracurricular activities that will allow them to realize their full potential as productive, responsible and caring citizens. One of the more recent national programs, the Boys and Girls Clubs of America, has expressed its interest in forming an alliance with the BIA to establish, equip and operate Boys and Girls clubs in BIA operated schools. Is this a commitment you might be willing to undertake to determine how the BIA can enable such organizations to utilize BIA school facilities for the benefit of Indian youth?

Mr. MCCALEB. I am willing to form partnerships with organizations that support the best possible education opportunities for Indian children. I look forward to working with the Boys and Girls Clubs of America and all worthwhile organizations that support the mission of BIA funded schools.

CENTRAL COUNCIL
tlingit and haida indian tribes of alaska
ANDREW P. HOPE BUILDING
320 West Willoughby Avenue • Suite 300
Juneau, Alaska 99801-9983

June 5, 2001

The Honorable Ben Nighthorse Campbell
Senate Committee on Indian Affairs
United States Senate
SR-380 Russell Senate Office Building
Washington, DC 20510-0605

RE: Support the Confirmation of Neal McCaleb

Dear Senator Campbell:

I am pleased to provide you a copy of my testimony in support of the immediate confirmation of Mr. Neal McCaleb as Assistant Secretary on Indian Affairs in the Department of the Interior.

I believe that it is critical that Mr. McCaleb be confirmed as soon as humanly possible. Mr. McCaleb's leadership is very much needed to begin the process of addressing the many problems that continue to plague the Bureau of Indian Affairs.

Any consideration given my testimony is very much appreciated.

Sincerely,

for Edward K. Thomas
President

Enclosure

Muscogee (Creek) Nation

PRINCIPAL CHIEF
R. Perry Beaver
SECOND CHIEF
A.D. Ellis

OFFICE OF THE PRINCIPAL CHIEF
PO Box 580
(HWY 75, Loop 56)
Okmulgee, Ok 74447
918/756-8700

April 27, 2001

The Honorable Ben Nighthorse Campbell, Senator and
Chairman of the Senate Indian Affairs Committee
Washington, D.C. 20510

Dear Senator:

This correspondence is to confirm the Muscogee (Creek) Nation's endorsement of Mr. Neal McCaleb as Assistant Secretary for Indian Affairs. The Muscogee Nation and I are very well acquainted with Mr. McCaleb and can attest to his knowledge and support of Indian Tribes. He has worked with our tribal government in various capacities at the State Level and we have found him to be fair and a true advocate for Indian issues in this State.

It is without reservation that we fully endorse and support President Bush's appointment of Neal McCaleb as the next Assistant Secretary for Indian Affairs.

Sincerely,

R. Perry Beaver, Principal Chief
Muscogee (Creek) Nation

PB/kb

TR 01-20

CLASSIFICATION #25: INTER-GOVERNMENT AND INTER-TRIBAL RELATIONS

A TRIBAL RESOLUTION OF THE MUSCOGEE (CREEK) NATION ENDORSING THE APPOINTMENT OF NEAL MCCALEB AS ASSISTANT SECRETARY FOR INDIAN AFFAIRS

WHEREAS, President George Bush has nominated Neal McCaleb, a native Oklahoman and member of the Chickasaw Nation of Oklahoma, as Assistant Secretary for Indian Affairs; and,

WHEREAS, Neal McCaleb's nomination is currently pending confirmation hearings in the Senate Indian Affairs Committee; and,

WHEREAS, The Muscogee (Creek) Nation and other Oklahoma Indian Tribes desire to endorse Mr. McCaleb's nomination to this critical post because of his expertise, knowledge and sensitivity of Oklahoma Indian issues. As an Oklahoma Indian, Mr. McCaleb has in the past and continues to be a strong advocate on behalf of Indian tribal issues; and,

WHEREAS, Other qualifications that make Mr. McCaleb the premier choice for Assistant Secretary include his service to the State of Oklahoma as Secretary of Transportation under two Oklahoma governors, a member of the Oklahoma House of Representatives (1974-83); Minority Floor Leader (1978) and over forty years of experience in designing and supervising the construction of roads, bridges, public facilities and architectural engineering.

NOW THEREFORE BE IT RESOLVED THAT, the Muscogee (Creek) Nation hereby endorses the nomination by President Bush and subsequent appointment of Neal McCaleb as Assistant Secretary of Indian Affairs, Bureau of Indian Affairs, Department of the Interior.

ENACTED by the Muscogee (Creek) National Council on this **19th day of May 2001**.

IN WITNESS WHEREOF, the Speaker of the Muscogee (Creek) National Council has hereto attached his signature.

Wilbur Gouge, Speaker
National Council
Muscogee (Creek) Nation

CERTIFICATION

I, the undersigned, certify that the foregoing is a true extract from the minutes of the Muscogee (Creek) National Council comprised of twenty-six members with **Twenty-Three** members attending this meeting on the **19th** day of **May 2001**, and that the above is in conformity with the provisions therein adopted by a vote of **19** in favor, **3** against, **0** abstentions, and that said Resolution has not been rescinded or amended in any way and the above is the signature of the Speaker of the National Council.

Ruthie A. Burgess, Recording Secretary
Muscogee (Creek) National Council

APPROVAL

I, the Principal Chief of the Muscogee (Creek) Nation, hereby affix my signature this 25 day of May, **2001**, to the above Resolution, **TR 01-20**, authorizing it to become a Resolution under Article VI., Section VI., of the Constitution of the Muscogee (Creek) Nation.

R. Perry Beaver, Principal Chief
Muscogee (Creek) Nation

OFFICE OF THE GOVERNOR
The Chickasaw Nation
Post Office Box 1548 • Ada, Oklahoma 74821
(580) 436-2603 • Fax (580) 436-4287

BILL ANOATUBBY
GOVERNOR

February 28, 2001

Honorable Gale Norton
Office of the Secretary
U.S. Department of the Interior
1849 C Street, N.W.
Washington, DC 20240

Dear Secretary Norton:

Please allow me this opportunity to reaffirm my encouragement of your every consideration of Mr. Neal A. McCaleb as the assistant secretary for Indian affairs.

Neal McCaleb is a citizen of the Chickasaw Nation and currently serves as the secretary of the Oklahoma Department of Transportation. Secretary McCaleb has served his state and its citizens with the highest degree of professionalism and integrity. These are traits which he will bring with him to serve the Native American population and the United States.

In addition, he has insight into the unique and pressing national problems facing Indian Country. Secretary McCaleb has proven, through his experience in the Oklahoma House of Representatives and as minority floor leader, that he understands how responsible governing can enable people to help themselves.

Secretary McCaleb is a 1999 inductee into the Chickasaw Nation Hall of Fame. He currently serves his tribe as a member of the advisory board for the development of the Chickasaw National Bank. I strongly believe in Secretary McCaleb and his abilities. He can provide the leadership and management necessary to guide the Bureau of Indian Affairs.

Your consideration of Mr. Neal A. McCaleb for the job of assistant secretary for Indian affairs will be greatly appreciated.

Sincerely,

Bill Anoatubby

Bill Anoatubby, Governor
The Chickasaw Nation

cc: Honorable Charles W. Blackwell

LaRue Martin Parker - Chairman
Mary Lou Davis - Vice-Chairman
Joyce Hinse - Secretary
LaCreda Daugomah - Treasurer

Magel Bowman - Anadarko Representative
Twilla Leahuis - Binger Representative
Carol Swindell - Ft. Cobb Representative
Francis Kodaseet - Oklahoma City Representative

Caddo Nation of Oklahoma
Post Office Box 487
Binger, Oklahoma 73009
(405) 656-2344 405-656-2345
FAX # 405/656-2892

Ms. Gale Norton, Secretary
Department of the Interior
1849 "C" Street, N.W.
Washington, DC 20240

March 30, 2001

Dear Secretary Norton:

I have been informed that Mr. Neal McCaleb, The Director of Transportation for the State of Oklahoma, is being considered for appointment as the Assistant Secretary for Indian Affairs (ASIA), under your administration of the Interior Department. Please accept this memorandum as a vote of support, from the Caddo Nation, for the appointment of Mr. McCaleb to this important position.

Mr. McCaleb, who is an enrolled member of the Chickasaw Nation, has been able to maintain through his public service role as a state administrator and his position as an enrolled tribal member a unique balance of service that has enhanced both areas of responsibility. This capability, alone, distinguishes Mr. McCaleb's potential for balancing the myriad of problems/issues that will arise for your ASIA. In addition, Mr. McCaleb is accepted by tribal populations as a fellow tribal member. This is an important characteristic that any future ASIA should possess and such specific individual identification should be considered as a basic element for the appointment.

The current areas of concern for tribal populations in Indian Country, are diverse and unique. The ASIA that serves with you will have an opportunity to address issues that are pertinent and important to a minority race of people who have played an important part in the history of this Nation. There are American Indian people of all ages who are in need of an ASIA that truly understands their needs. Mr. McCaleb's dual perspective will serve Indian people and the general population, in good ways. For reasons, herein, stated the Caddo Nation urges your consideration of Mr. Neal McCaleb as your Assistance Secretary for Indian Affairs.

Sincerely,

LaRue Martin-Parker
Tribal Chairwoman

cc: Senator Don Nickels
Senator Jim Inhofe
Senator Ben Nighthorse Campbell
Senator John McCain
Representative J.D. Hayworth

NEWS
U.S. DEPARTMENT OF THE INTERIOR

Office of the Secretary
For Immediate Release: April 17, 2001

Contact: John Wright
202-208-6416

Secretary Norton Praises President Bush's Intention to Nominate Neal McCaleb as Assistant Secretary for Indian Affairs

"His compassion for Indian issues and decisive management skills will help to improve this program..."

Secretary of the Interior Gale Norton today praised President Bush's intention to nominate Neal A. McCaleb to serve as Assistant Secretary for Indian Affairs. The announcement is subject to confirmation by the U.S. Senate, once the official nomination is made by the President.

"Neal McCaleb will bring a unique blend of skills, experience and background that will serve him well as Assistant Secretary for Indian Affairs," said Secretary Norton. "His compassion for Indian issues, decisive management skills and ability to facilitate dialogue will help to improve this program and the relationship of the Department with Indian tribes around the country."

Mr. McCaleb, a member of the Chickasaw Nation, served as Oklahoma's first Secretary of Transportation in Governor Bellmon's Administration from 1987 to 1991, and recently in Governor Keating's Administration from 1995-2001, where he is responsible for overseeing the construction and maintenance of the state's transportation systems, and the state assisted general airports program. He is the first in the history of the state government to serve concurrently as Director of both the Oklahoma Department of Transportation (1987-95) and the Oklahoma Transportation Authority in addition to serving as Cabinet Secretary.

In 1999, then Secretary McCaleb negotiated the reinstatement of passenger rail service to Oklahoma with Amtrak after a 20-year absence. Prior to that he was a practicing engineer with more than 40 years experience in designing and supervising the construction of roads, bridges, public facilities, and architectural structures in Oklahoma and throughout the Southwest.

Mr. McCaleb also served eight years in the Oklahoma House of Representatives and was elected Minority Floor Leader in 1978. He is a native of Oklahoma City, OK. He earned his Bachelor of Science degree in Civil Engineering from Oklahoma State University. He and his wife Georgann have four grown children.

The Assistant Secretary for Indian Affairs has responsibility for fulfilling the Department's trust responsibilities and promoting self-determination on behalf of Tribal governments, American Indians, and Alaska Natives. The Assistant Secretary is also responsible for providing services to approximately 1.4 million American Indians and Alaska Natives who are members of the 561 federally recognized tribes.

- DOI -

UNITED SIOUX TRIBES OF SOUTH DAKOTA
Development Corporation
P. O. Box 1193
Pierre, SD 57501

Administration	945-3075
Employment Assistance	945-3074
J.T.P.A.	224-8865
Business Office	224-8864
E-mail	usdc@sd.cybernex.net
Fax	(605) 224-0069

- Standing Rock
- Lower Brule
- Fort Totten
- Flandreau
- Rosebud
- Santee
- Crow Creek
- Pine Ridge
- Cheyenne
- Sisseton
- Yankton

Field Offices
Rapid City 343-1100

May 9, 2001

The Honorable Ben Nighthorse Cambell
Chairman
Committee On Indian Affairs
U.S. Senate
Washington, DC 20510

Re: Neal McCaleb, Assistant Secretary-Designate, Indian Affairs

Dear Mr. Chairman:

We are writing to urge a prompt confirmation of Neal A. McCaleb to be the Assistant Secretary for Indian Affairs. Mr. McCaleb has a long and distinguished career in which he has demonstrated the skills that are essential for our next Assistant Secretary for Indian Affairs.

Mr. McCaleb has proven that he is an effective administrator of large government agencies and programs. His focus and determination, along with an insistence on reasoned and timely decision-making, have brought repeated successes to public and private organization he has led. Mr. McCaleb understands Tribal resource matter. He has worked as an engineer/developer on numerous projects involving tribal resources, including the design of the Ft. Totten Sioux K-12 School. Mr. McCaleb has experience on various Indian opportunity policy groups, which demonstrated commitment and proved necessary preparation for the challenges of the Assistant Secretary position. Finally, Mr. McCaleb's four terms as a member of the Oklahoma State Legislature, including service as minority floor leader, provide him insight and political experience that would be valuable for the Assistant Secretary for Indian Affairs. As an effective government executive, developer of Tribal resources, leader in Indian opportunity and elected political leader, Mr. McCaleb has demonstrated a readin3ess to be an outstanding Assistant Secretary of Interior for Indian Affairs. The United Sioux Tribes commend his nomination to you.

As you know, Mr. Chairman, there is much to be done in Indian Country. The United Sioux Tribes looks forward to working with the new Assistant Secretary on issues of importance to the Great Sioux Nation and to Native Americans throughout the country.

Thank you very much for your consideration. With best regards, I am

Clarence W. Skye
Executive Director

AIO
Americans for Indian Opportunity

LaDonna Harris
Comanche
Founder & President

Eddie Tullis
Poarch Creek
Vice President

Elma Patterson
Tuscarora
Secretary

Mary Jo Butterfield
Makah
Treasurer

Edgar Bowen
Coos

Michael Chapman
Menominee

David A. Cournoyer
Rosebud Sioux

Phyllis Old Dog Cross
Mandan-Hidatsa

Andrew Ebona
Tlingit

Coy G. Eklund

Jeanne Givens
Coeur D'Alene

Minerva Jenkins
Mojave

Valorie Huff Johnson
Seneca-Cayuga/
Eastern Band of Cherokees

Louis LaRose
Winnebago/Ute

A. David Lester
Creek

Charles Lohah
Osage

Grace McCullah-Ryan
Navajo

Jerry Muskrat
Cherokee

Ivan Posey
Eastern Shoshone

Faith Roessel
Navajo

Joe S. Sando
Jemez Pueblo

Gilbert H. Thompson
Mississippi Band of
Choctaws

Judy Winchester
Pokagon Band Potawatomi

681 Juniper Hill Road
Bernalillo, NM 87004
505.867.0278
Fax: 505.867.0441
www.aio.org

May 9, 2001

The Honorable Ben Nighthorse Campbell
Chairman
Senate Committee on Indian Affairs
United States Senate
Washington, DC 20510

Dear Senator Campbell:

I am happy to have the opportunity to recommend to you my old friend, Neal McCaleb. I hope you will give him favorable consideration to serve as the Assistant Secretary for Indian Affairs of the U.S. Department of Interior. I have known Neal since we were in high school together in Putnam City, Oklahoma.

Neal is a strong leader with important ties to the Indian community. I have had the pleasure of working with Neal, first, when he served on the board of directors of Oklahomans for Indian Opportunity, an organization which I founded. I also worked with him when he was appointed to the President's Indian Opportunities Council, of which I was an original member appointed by President Johnson.

Neal has been an exemplarily leader with true spirit and of outstanding character. He served in the Oklahoma State Legislature when virtually no Native Americans served in such a positions. He is a successful businessman and dedicated public servant. He has always been a good friend and has served the Indian community faithfully.

It is a pleasure to support Neal McCaleb's nomination. If you have questions or if you need more information, please do not hesitate to contact me. Thank you for your consideration.

Warmest regards,

LaDonna Harris
President

cc: Paul Moorehead

KAW NATION

Drawer 50
Kaw City, OK 74641
(580) 269-2552 Fax (580) 269-2301

The Honorable Ben Nighthorse Campbell
Chairman, Senate Indian Affairs Committee
Washington, DC 20510

May 10, 2001

Re: Supporting the Appointment of Mr. Neal McCaleb as Assistant Secretary

Dear Mr. Chairman,

As Chairman for the Kaw Nation, we fully endorse President Bush's nomination of Mr. Neal McCaleb to the position of Assistant Secretary of Indian Affairs for the Department of Interior.

Mr. McCaleb is qualified and experienced to fulfill the duties and responsibilities of the Assistant Secretary of Interior. Mr. McCaleb's unique blend of skills, experience and background would serve him well as Assistant Secretary for Indian Affairs. He has a long record of public service in Oklahoma, and he'll bring tremendous leadership skills to the Bureau of Indian Affairs.

We believe that he will be a Tribal advocate and will provide fair and equitable leadership both to the tribes and to the Administration. Therefore, we urge the United States Senate to support the President's appointment.

Sincerely,

Wanda Stone
Kaw Nation Chairperson

cc: Senator Daniel Inouye

MODOC TRIBE OF OKLAHOMA
515 G Southeast
Miami, Oklahoma 74354
918-542-1190 • FAX 918-542-5415

May 11, 2001

Senator Ben Nighthorse Campbell, Chairman
Senate Committee on Indian Affairs
Washington, D.C. 20510

Dear Senator Nighthorse;

The Modoc Tribe of Oklahoma supports the confirmation of Neal McCaleb as assistant secretary of the Interior.

Sincerely,

Bill G. Follis
Chief

cc: Senator Daniel Inouye, Vice Chairman

Bf/cc

CHEROKEE NATION
P.O. Box 948
Tahlequah, OK 74465-0948
918-456-0671

Chad "Corntassel" Smith
Principal Chief

Hastings Shade
Deputy Principal Chief

June 12, 2001

The Honorable Daniel K. Inouye
Chairman, Senate Committee on Indian Affairs
Senate Hart Office Building, 838
Washington, DC 20510

Via Facsimile: 202-224-5429 - SCIA, 202-224-6747 - Office

Dear Chairman Inouye:

As Principal Chief of the second largest Indian tribe in the United States (Cherokee Nation has over 210,000 tribal members), I vigorously support your advocacy on behalf of the nomination of Mr. Neal McCaleb for Assistant Secretary–Indian Affairs. I know that President Bush and Secretary Norton searched for the best possible candidate for this appointment. We are very pleased with the nomination of Mr. McCaleb, who has served all Oklahomans well, both Indian and non-Indian, as Secretary of the Oklahoma Department of Transportation.

As the new Assistant Secretary–Indian Affairs, Mr. McCaleb will bring the same strong advocacy for Indian Country that he gave to Governor Frank Keating and the people of Oklahoma as Secretary of Transportation. His record is one of strong and valuable civil service, and I respectfully request that you make the Cherokee Nation's support of Mr. McCaleb part of the official Hearing Record.

If I may be of any further assistance to you, please fell free to call me at any time.

Sincerely,

Chad Smith
Principal Chief

cc: Senate Committee on Indian Affairs
Senator Don Nickles
Senator Jim Inhofe
Pat Zell, Majority Staff Director SCIA

Dennis G. Chappabitty

Attorney at Law

Federal Practice

June 6, 2001

Hon. Daniel K. Inouye
Vice-Chairman, Committee on Indian Affairs
838 Hart Senate Office Bldg.
Washington, D.C. 20510

Dear Senator Campbell:

I am a member of the Comanche Indian Tribe of Oklahoma and I would like to submit this letter in the official record of the Senate Committee on Indian Affairs as supporting Neal A. McCaleb, President Bush's nominee to head the U.S. Bureau of Indian Affairs.

In 1919, my father, Edwin Chappabitty, Sr., was one of the last true Comanches born in a tee-pee, under the moon and stars, a short distance from Indiahoma, Oklahoma. Comanche was his first language. In 1974, he retired from 25 years of federal civil service at Ft. Sill, Oklahoma. My father had spent many years diligently working up the ladder from journey-man carpenter after WW II to become to a very qualified construction inspector whose primary mission was to insure the highest degree of integrity in workmanship on projects on the military reservation.

After his retirement, "Chappy", as his construction trade friends called him, worked for Mr. McCaleb's construction firm on projects on Ft. Sill in the capacity as an on site inspector. Of course, my father got to know Mr. McCaleb and he told me that Neal's company was committed to the highest quality work on projects and that Mr. McCaleb was a man of the highest honor, integrity and character. Coming from my strictly conservative Comanche Democratic father, this attestation of Mr. McCaleb's overall professional qualifications and personal integrity was one of the few I heard him ever give to anyone.

My father passed away in 1985. However, I know that he would want me to convey his personal and professional opinions of Mr. McCaleb to the Senate Committee on Indian Affairs during his confirmation hearing. My father was a person who never strayed from his commitment to do anything possible and in what little way to better the lives of his Comanche People. To gain my father's praise after keen observation and critical evaluation was to also gain a stamp of approval that you were capable of genuinely caring about the lives and concerns of Native Americans. In other words, my father knew Mr. McCaleb was a man integrity and principle in his dealings with everyone.

Since my father would wholeheartedly give his endorsement to Mr. McCaleb to become the Assistant Secretary - Indian Affairs, I have every expectation that he will carry out the federal trust relationship to Tribes and individual Indians as a highly professional, fair and genuinely concerned Assistant Secretary.

Respectfully,

Dennis G. Chappabitty
Attorney at Law, OBA #1617

Tel./Fax (916) 682-0575 • Email: chap@2xtreme.net
P.O. Box 292122, Sacramento, CA 95829

Member, Oklahoma Bar Association #01617
*Not a member of the California Bar

United National Indian Tribal Youth, Inc.

500 North Broadway Ave., Suite 250 • Oklahoma City, OK 73102
Mailing Address: P.O. Box 800 • Oklahoma City, OK 73101
Tel: (405) 236-2800 • Fax: (405) 971-1071

June 11, 2001

The Honorable Daniel K. Inouye, Chairman
The Honorable Ben Nighthorse Campbell, Vice-Chairman
United States Senate Committee on Indian Affairs
838 Hart Senate Office Building
Washington, DC 20510

Dear Chairman Inouye, Vice-Chairman Campbell, and Committee Members:

It is with great pleasure that I support President Bush's nominee for the position of Assistant Secretary for Indian Affairs, Department of the Interior – Mr. Neal McCaleb.

For more than 20 years I have known him and followed his work. Mr. McCaleb is a gifted and caring individual. I first met him when he was operating his successful engineering firm and followed his service in the Oklahoma State Legislature. More recently, I have observed his service as Secretary of Transportation in Governor Frank Keating's administration. He is a friend of UNITY and has generously given his time and energy to support greater opportunities for Native American youth.

It is my belief that Mr. McCaleb will bring many special qualities to the Department of Interior:

- integrity
- leadership
- open-mindedness to work with <u>all</u> tribes, villages, and communities
- business expertise which could help tribes move toward self-sufficiency
- excellent management skills
- experience in working with tribal governments
- experience in working with state governments
- experience in working with the federal government
- cooperation as a team player
- sincere desire to improve the quality of life for <u>all</u> Americans and Alaska Natives

Mr. McCaleb has much to offer the Department of Interior, the citizens of the United States, and, most of all, American Indian and Alaska Native citizens of all ages throughout our great nation.

To be effective, the Assistant Secretary for Indian Affairs must be able to work with the leaders of hundreds of diverse American Indian tribes and Alaska Native villages throughout the United States. The Assistant Secretary must work with tribal and village leaders on a government-to-government basis. Decisions made by the Assistant Secretary and the Bureau of Indian Affairs will affect the lives of American Indian and Alaska Native youth now and for future generations. The position will be difficult and most challenging. I am confident that Mr. McCaleb can meet that challenge, and I encourage the Committee to confirm his nomination.

Respectfully,

J. R. Cook
Executive Director

THLOPTHLOCCO TRIBAL TOWN

Federal Charter 1938 — Creek Tribe

Grace Bunner, Mekko

Executive Office

Tony Lowe
Warrior

Wayne Harjo
Warrior

Cindy Yahola
Secretary

Rosalie Bateman
Treasurer

Frank Harjochee
Advisory Committee

Michael Harjochee
Advisory Committee

Charley McGertt
Advisory Committee

Charles Coleman
Advisory Committee

Elizabeth Trickey
Advisory Committee

June 4, 2001

Senator Ben Nighthorse Campbell, Chairman
Senate Committee on Indian Affairs
380 Russell Senate Office Bldg.
Washington, D.C. 20510

Dear Senator Campbell:

With the beginning of a new millennium and the birth of a new administration, Mr. Neal McCaleb is a favorable choice for the position of Assistant Secretary of the Interior. As Mekko of Thlopthlocco Tribal Town, it is my pleasure to highly recommend Mr. McCaleb as worthy of your support.

A fellow Oklahoman as well as a member of the Chickasaw Nation, Neal McCaleb possesses the knowledge and strength of character that is necessary to fulfill the capabilities of this honorable position toward the prosperity of both Native American and Non-native Society. Through the determination and courage of his leadership, a cornerstone for increased opportunities for social and economic development in Indian Country may be laid that would reach far into the 21st Century; even further in terms of successful government-to-government relationships.

Thlopthlocco Tribal Town is a small Tribe, yet Mr. McCaleb has provided his wholehearted attention to matters with which he could possibly help. The Clearview Road Project is one such case in which his assistance has been evident from the beginning and continues as the project develops. This two-mile stretch of roadway is still quite significant to the rural community it will service, which includes a small rural black community, and may hopefully provide the impetus for a badly needed road improvement program six miles beyond and ending at the town of Weleetka. That eight miles is the shortest route to medical facilities for a great number of people.

P.O. Box 188 • Okemah, Oklahoma 74859
(918) 623-2620
Fax (918) 623-0419 • email gbunner@pccompsoft.net

The significance of the fact that Neal McCaleb is not hesitant to assist small tribes as well as the large cannot be overly stressed; this is an attribute that speaks very highly of this individual and his leadership patterns. He is able to recognize needs and concerns on an individual basis yet his concern seems to encompass surrounding entities regarding impact of decisions. A major priority of Thlopthlocco Tribal Town is to be community friendly and Mr. McCaleb's leadership style seems to be the embodiment of that philosophy, as evidenced by the Clearview Road Project.

Again, for the above stated reasons, I highly endorse Neal McCaleb's confirmation as Assistant Secretary of the Interior and would greatly appreciate your support of this. On behalf of Thlopthlocco Tribal Town, thank you for your time and consideration.

Sincerely,

Grace Bunner

Grace Bunner, Mekko
Thlopthlocco Tribal Town

GB/rt

Cc: Senator Daniel Inouye, Vice Chairman
Senate Committee on Indian Affairs

Mr. Neal McCaleb