Statement of the Honorable Neal A. McCaleb
Nominee for the Position of Assistant Secretary - Indian Affairs
Department of the Interior
Before the Committee on Indian Affairs
United States Senate

June 13, 2001

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 thirty-five 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. the 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 tax base 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 generation 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 start up 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 conducive 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.