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United States Senate
COMMITTEE ON INDIAN AFFAIRS
WASHINGTON, DC 20510–6450

February 22, 2008

Honorable Kent Conrad
Chairman
Committee on the Budget
United States Senate
Washington, D.C. 20510

Honorable Judd Gregg
Ranking Member
Committee on the Budget
United States Senate
Washington, D.C. 20510

Dear Chairman Conrad and Ranking Member Gregg:

This letter responds to your request for the Senate Indian Affairs Committee's views and estimates on the President's Fiscal Year 2009 budget request for Indian programs. This Committee shares the President's commitment to reducing the federal deficit and balancing the budget. However, the government-to-government relationship between the United States and Indian tribal governments and the federal trust responsibility require support adequately reflecting these obligations. Moreover, our oversight of conditions and issues facing Indian Country has enabled us also to see significant challenges. Many, if not most, American Indian and Alaska Native tribal governments face inadequate access to health care, economic opportunity, education, housing, and law enforcement services, all key elements of healthy communities. Thus, we are concerned about the potential impact of the number of proposed reductions in or elimination of funding for certain Indian programs. We urge that the budget resolution instead provide funding over the budget request that will promote the well-being of whole Native American communities, particularly in the areas of health care, housing, public safety and justice, and education.

In this letter, we set forth the general background supporting the Committee's recommendations as well as FY 2009 funding recommendations for specific programs. We appreciate your consideration of this Committee's recommendations as the Budget Committee develops the Fiscal Year 2009

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budget resolution.

In summary, the Committee recommends the following for major Indian programs:

- Public Safety and Justice within the Department of Justice, an increase of $54 million above the FY 2008 enacted level and an amount sufficient to provide for an additional 25 FBI agents and 25 Assistant US Attorneys dedicated to Indian Country criminal cases;

- Public Safety and Justice within the Department of Interior, an increase of $29.8 million above the FY 2009 budget request;

- Health care services within the Indian Health Service of the Department of Health and Human Services, an increase of $156.9 million above the FY 2009 budget request, and an additional amount to cover "built-in" costs such as medical inflation and population growth, which the IHS estimates to be up to $144.1 million;

- Tribal Energy activities within the Department of Interior, an increase of $2 million above the FY 2009 budget request;

- Tribal Energy activities within the Department of Energy, an increase of $22.3 million above the FY 2009 budget request;

- Tribal Economic Development activities for the Community Development Fund Initiatives within the Department of Treasury of $8 million above the FY 2009 budget request;

- Tribal Economic Development activities for the BIA Indian Loan Guarantee within the Department of Interior of $2 million;

- Welfare Assistance within the Bureau of Indian Affairs of $21.9 million above the FY 2009 budget request;

- Tribal Infrastructure activities for the Indian Reservation Roads program within the Department of Interior of $12.5 million above the FY 2009 budget request;

- Tribal Infrastructure activities for the Housing Improvement Fund within the Department of Interior of $13.6 million above the FY 2009 budget request;

- The Tribal Land Consolidation Program within the Department of Interior of $34.5 million above the FY 2009 budget request;

- Tribal Infrastructure activities, including community development, training and technical assistance, for Native American housing within the Department of Housing and Urban Development of $57 million above the FY 2009 budget request;

- Indian Education programs within the Department of Interior of $70.6 million above the FY 2009 budget request, includes restoration of programs zeroed out; and

- Indian Education programs within the Department of Education of $130 million above the FY 2009 budget request, includes restoration of programs zeroed out.

- Contract Support Costs within the IHS of the Department of Health and Human Services in the amount of $110 million above the FY 2009 budget request and within the BIA of the Department of Interior in the amount of $40 million above the FY 2009 budget request.

I. General Background Supporting the Committee's Budget Recommendations

The U.S. Department of Interior identifies 562 federally-recognized tribes in the United States. For the 2000 Census, 4.3 million people identified themselves as American Indian or Alaska Native. Of this total, 2.4 million identified themselves as only American Indian or Alaska Native. The 2000 Census observed a 25% growth in the Indian population on reservations and a 21% growth off reservations. Between 1990 and 2000, the American Indian and Alaska Native population as a whole increased at a rate of 26%, compared with 13% for the total U.S. population. The Bureau of Indian Affairs (BIA) provides land trust, education and other services to 1.6 million enrolled members of federally recognized tribes, and the Indian Health Service (IHS) provides health care services to 1.9 million American Indians and Alaska Natives.

Generally, funding for Indian programs derives from the United States' trust obligation to Indian tribes. This unique political and fiduciary relationship is grounded in the United States Constitution, treaties, federal statutes, and Supreme Court case law. The federal government's obligation also arises in part from cessions of many millions of acres of land from Indian tribes to the United States in exchange for peace, protection of tribal sovereignty, reservations of tribal homelands, and promises to provide a variety

of programs and services. While the federal policy toward Indians has shifted over time, sometimes radically, for the last thirty-plus years, both the Congress and Republican and Democratic Administrations have encouraged a policy of Indian self-determination, which encourages tribes to develop programs that best serve their members, lessen their dependence on the federal government, and ensure their participation in the nation's economy.

Recent studies conclude that the federal policy of self-determination, under which tribal governments build and administer their own programs, is working to improve Indians' socioeconomic status. Every effort must be made to support and enhance tribal self-determination. Despite recent gains, tremendous disparities continue to exist in various socioeconomic indicators between Native Americans and the overall U.S. population, with Indians ranking well below the national average in measures of public safety, health, education, income, and welfare. Indicators of this disparity include the following:

Violent Crime Committed Against Native Americans Is Twice the National Average. According to statistics gathered by the Department of Justice's Bureau of Justice Statistics, violent crime committed against American Indians is twice the national average, and is more likely committed by a perpetrator who is not Native American. Among American Indians age 25 to 34, the rate of violent crime victimizations was more than 2½ times the rate for all persons the same age; and rates of violent victimization for both males and females were higher for American Indians than for all races. For Native youth between the ages of 12 and 17, the rate of violence is 65% greater than the national rate for youth. In addition, according to a recent Centers for Disease Control report, the percentage of Indian women over the age of 18 with a history of lifetime intimate partner violence victimization is at a shocking 39%. In 2007, the Administration reported that violent crime rate on Indian reservations was 492 per 100,000 residents.

The Poverty Rate Is Higher for American Indian and Alaska Natives Than for the United States Overall. The average annual poverty rate for American Indian and Alaska Natives between 1999 and 2001 was 24.5%, compared to the national average poverty rate of 11.6%. Nearly one-quarter of Native Americans live in poverty.[1] Although income levels for reservation residents rose 33% between 1990 and 2000, per capita income for Indians living on the reservation is still less than one-half the national average.

Indians' Health Status Is Lower Than That of the Overall U.S. Population. Indians' and Alaska Natives' life expectancy is almost four years less than that of the overall U.S. population. Death rates from a variety of diseases are

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[1] U.S. Census Bureau, "Poverty in the United States: 2001," *Current Population Reports*, September, 2002, p. 7.

significantly higher than for the general population. For example, Indians have a 670% higher death rate from alcoholism, a 318% higher death rate from diabetes, and a 650% higher death rate from tuberculosis than the general population. American Indian and Alaska Native mortality rates for cervical cancer, motor vehicle crashes, unintentional injuries and homicide are also higher than the mortality rates for other Americans. The suicide rate for American Indians and Alaska Natives between the ages of 15 and 34 is three times the national average, with access to mental health services non-existent for many tribal youth.

Unemployment Is a Persistent Problem. The Bureau of Indian Affairs 2003 Indian Labor Force Report calculated that 49 percent of the total Indian labor force living on or near reservations was unemployed. This percentage ranges among tribes and among states. The Aroostook Band of Micmac Indians in Maine, for example, has an estimated 88% unemployment as a percent of the available labor force. The Oglala Sioux Tribe of the Pine Ridge Reservation in South Dakota has an unemployment rate of 87% of the available labor force.

Housing for Indian Families Is Inadequate. According to 2002 statistics, 90,000 Indian families were homeless or under-housed. On tribal lands, 28% of Indian households were found to be overcrowded or to lack adequate plumbing and kitchen facilities, compared to 5.4% of national households. [2] When the physical structure, heat, and electrical equipment conditions are included, approximately 40% of reservation housing is characterized as inadequate, compared with 5.9% of the national households, and less than half of all reservation homes are connected to a public sewer system. One in five American Indians lives in an overcrowded home, and on some reservations, as many as 25 to 30 people live in a three-bedroom home.

Indian Educational Achievement Lags Behind. Approximately 33% of the American Indian and Alaska Native population is under the age of 18. However, the educational achievement, graduation rate, and college readiness of Indian and Alaska Native students seriously lag behind other groups of Americans. According to the Department of Education, Indian students are below the national average on national math, reading, and science assessments and lag behind most other races in these subject areas. At both grades 4 and 8, Indian and Alaska Native students had lower average scores in both reading and math than the average scores for all other students in the nation. 11.4% of American Indian and Alaska Native students received special education services in 2002. According to a 2003 study conducted by the Manhattan Institute for Policy Research, the graduation rate for Indian students was 54 percent compared to 72 percent for white students. The college readiness rate

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[2] *Native America at the New Millennium*, Eric Henson and Jonathan B. Taylor, April, 2002, The Harvard Project on American Indian Economic Development.

for white students was 37, while only 14 percent of Indian students were prepared to succeed in college.

II. Committee Recommendations on Specific Programs

PUBLIC SAFETY AND JUSTICE IN INDIAN COUNTRY

The United States has distinct legal obligations to provide for the public safety in Indian Country. Sections 1152 and 1153 of Title 18 of the United States Code acknowledge the responsibility of the United States to investigate and prosecute most crimes committed on Indian lands. Federal investigators and prosecutors are also responsible for policing and prosecuting more than a dozen other federal laws that are unique to Indian lands, ranging from the sale or possession of intoxicants, to destruction of Indian property, to gambling.

Congress and the Administration have acknowledged that tribal law enforcement officers are often the first responders to reservation crime, and that tribal justice systems are ultimately the most appropriate institutions for maintaining order in tribal communities.

As a result, in order to fulfill the federal government's trust and legal responsibilities to Indian tribes, the United States must provide adequate federal law enforcement resources to Indian Country, and enhance tribal justice systems themselves.

Despite these obligations, funding for investigators and prosecutors at the federal level, and for tribal justice programs at the local tribal level have steadily decreased over the past six fiscal years. Between 2004 and 2007, United States attorneys declined to prosecute 62% of reservation criminal cases referred to their offices. The Justice Department shows a 27% decrease in Indian Country criminal investigations by the Federal Bureau of Investigations from 2001 to 2006. In FY 2002, funding for tribal public safety and justice programs at the Department of the Interior and Department of Justice totaled $262 million. In FY 2007, the total was $255 million.

The lack of dedicated resources and funding has led to the existing public safety crisis that many tribal communities face across the country. Rates for violent crime, domestic abuse, and sexual assault on Indian reservations remain significantly higher than the national average. A February 8, 2008, report released by the Centers for Disease Control finds that American Indian and Alaska Native women experience the highest rates of domestic violence in the United States. The survey found that two in five Native women (39%) have been victims of intimate partner violence in their lifetime, compared with one in four women overall. The CDC survey is consistent with an April,

2007, Amnesty International report which found that 34% of Native women will be subject to rape or sexual assault in their lifetimes.

In 2007, the Administration reported that the violent crime rate on Indian reservations was 492 per 100,000 residents. The national average was 330 per 100,000 residents. Reservation rates for aggravated assault was nearly double the national average (444 vs. 245).

Crimes committed by and against American Indian and Alaska Native juveniles follow this same pattern. For Native youth between the ages of 12 and 17, the rate of violent victimization is 65% greater than the national rate. The Department of Education's National Center for Education Statistics estimated that in 2004, 22 percent of American Indian and Alaska Native high school students reported being threatened or injured with a weapon on school grounds in the previous twelve months, compared to 11 percent of black, 9 percent of Hispanic, and 8 percent of white students.

Federal and tribal law enforcement agents have revealed a disturbing trend in reservation drug trafficking. Officers have seized drug organization business documents that cite the lack of tribal law enforcement resources and jurisdictional confusion. These criminal organizations have increased efforts to target Indian reservations for the manufacture and distribution of drugs with a focus on methamphetamine.

Indian Country crime hinders economic development on Indian lands, further deteriorates the health of reservation residents, and imposes dramatic financial burdens on tribal governments. For example, the February, 2008, Centers for Disease Control report identifies a correlation between domestic violence and chronic diseases and conditions, as well as risky health behaviors like smoking and binge drinking.

For all of the above listed reasons, the Committee proposes a significant increase in public safety and justice funding for tribal programs and law enforcement resources for both the Department of Justice and Department of the Interior in FY 2009.

Department of Justice

Tribal leaders have continued to make public safety and justice their top funding priority. Critical shortages in police presence, lack of resources for tribal courts and justice officials to prosecute crimes, and lack of bed space and treatment facilities to incarcerate and treat individuals convicted in tribal court have all led to a growing public safety crisis in Indian Country.

As noted above, the Department of Justice has specific legal obligations to prevent and prosecute Indian Country crime. Just as the Department

provides supplemental funding for state and local government justice systems, it has provided similar program funding for tribal governments over the past decade, including:

- Construction of Correctional Facilities in American Indian and Alaska Native Communities Discretionary Grant Program provides funding for the construction of jails on tribal lands to incarcerate offenders subject to tribal jurisdiction;

- Tribal Community Oriented Policing Services Program provides direct funding to tribal governments to hire and train new and existing law enforcement officers, and to purchase equipment, technology and vehicles to support these law enforcement officers;

- Tribal Courts Assistance Program supports the development, implementation, enhancement and continuing operation of tribal judicial systems;

- Tribal Youth Program provides grants to tribes to improve tribal juvenile justice systems and to develop and implement culturally-sensitive delinquency prevention programs, alcohol and substance abuse prevention programs, and interventions for tribal youth; and

- Indian Alcohol and Substance Abuse Program provides grants to support tribal communities to plan and implement system-wide strategies that will reduce and control crime associated with the distribution and abuse of alcohol and controlled substances.

Funding for these programs has steadily declined over the past six fiscal years. At the same time, violent crime on Indian lands has continued to steadily increase. The FY 2009 budget again proposes to eliminate these tribal-specific public safety and justice programs within the Department of Justice. The FY 2009 budget proposes to consolidate 70 Office of Justice Programs grant programs into four new discretionary grant programs for state, local and tribal governments.

The Committee **opposes** the consolidation of these programs, and instead recommends that tribal programs continue to be expressly and separately funded.

Police Presence in Indian Country: There are approximately 2,500 federal and tribal law enforcement officers that patrol more than 56 million acres of Indian lands. The violent crime rate in Indian Country is more than double the national average, which mirrors the violent crime rates of large urban areas like Baltimore, Detroit, and Washington, DC. Those cities have police-to-citizen

ratios that average more than 5 officers per 1,000 residents. However, in Indian Country few police departments have more than two officers per 1,000 residents.

Tribal Courts: As noted above, the federal declination rate for reservation crimes is more than 60%. When a case is declined at the federal level, the tribal court represents a victim's last chance to obtain justice. However, most tribal court systems are overwhelmed, underfunded, and ill-equipped to deal with the growing public safety crisis facing Indian Country. Many tribal courts systems lack computers, essential tracking systems and public defenders.

Tribal Correctional Facilities: Another contributing factor to reservation crime is the lack of jail bed space to house adult and juvenile offenders. According to the Bureau of Justice Statistics, inmate levels in tribal jails exceed 120 percent of capacity. Tribal jails nationwide face a $400 million construction backlog. The lack of space has forced tribal court judges to release lower level offenders back into the community. Only the most hardened criminals are incarcerated. In testimony before the Indian Affairs Committee in June, 2004, the Interior Department's Inspector General testified that the Indian jails system has been under-funded for more than a decade, and that of the 74 jails on Indian lands, he said that the majority are outdated, overcrowded, and in deplorable condition.

The Committee recommends restoring and enhancing funding for the following tribal justice programs within the Department of Justice:

- Tribal COPS, $35 million;
- Correctional Facilities on Tribal Lands, $35 million; and
- Tribal Courts Assistance Program, $15 million.

The Committee also proposes retention of the FY 2008 funding levels for the Indian Alcohol and Substance Abuse and Tribal Youth Programs:

- Indian Alcohol and Substance Abuse Program, $5 million; and
- Tribal Youth Program, $14.1 million.

This proposal would restore funding for these five tribal justice programs to the FY 2002 total levels of $104.1 million (once adjusted for inflation), and represents a $50 million increase over total FY 2008 enacted level.

Violence Against American Indian and Alaska Native Women: As noted above, the Centers for Disease Control reported this month that two in five (39%)

Native women will experience violence in their lifetimes. This is the highest rate of any group in the Nation. The CDC survey confirms an April 2007 Amnesty International Report that 34% of Native women will face rape or sexual assault in their lifetimes.

Recognizing the exceptional needs of Indian women, Violence Against Women Reauthorization Act of 2005 included provisions to fund research and tracking systems to enhance the ability of tribal governments and tribal law enforcement agencies to respond to violence against Indian women on tribal lands. Congress funded both of these programs at $940,000 each in FY 2008.

As with the other tribal specific programs, the Department's FY 2009 budget request would eliminate the specific tribal programs within the Office on Violence Against Women. The Committee opposes the elimination of these programs and proposes full funding for both programs at the FY 2008 levels.

Federal Law Enforcement Resources: As noted above, the Department of Justice has specific legal obligations to respond to, investigate, and prosecute Indian Country crimes. However, Department resources dedicated to these efforts have decreased in recent years. FBI investigations into Indian Country crime have decreased by 27% in the past 7 years, and U.S. attorneys have declined to prosecute an average of 62% of Indian Country criminal cases referred to their offices.

To address these shortages, the Committee proposes funding for an additional 25 Tribal Liaisons (Assistant United States Attorneys dedicated to prosecuting Indian Country crimes), an additional 25 FBI agents to investigate and prepare Indian Country crimes for prosecution, and an additional $2 million for the FBI to train tribal law enforcement officers and conduct forensic examinations of Indian Country crimes.

Bureau of Indian Affairs

Like the Department of Justice, the Bureau of Indian Affairs also has specific legal, treaty, and trust obligations to provide for the public safety of Indian Country residents. BIA law enforcement officers work with Federal Bureau of Investigations officers to investigate reservation crimes and prepare them for prosecution by the United States attorneys or tribal prosecutors. Many tribes have contracted law enforcement services from the BIA pursuant to the Indian Self-Determination and Education Assistance Act, and operate their own law enforcement agencies, court systems, and jails. The BIA provides direct base funding for these tribal justice programs.

In 2007, the Indian Affairs Committee held three hearings to examine the current Indian Country justice system, its needs, and needed reforms. These hearings reveal a severe and longstanding public safety crisis in Indian

Country. The problem stems from a complicated jurisdiction makeup that governs Indian lands, and a historical lack of funding for tribal justice systems. The Committee's hearing noted the critical staffing and facility shortages plaguing the BIA and tribal law enforcement agencies.

As noted above, these personnel shortages have been exploited in recent years by non-Indian and foreign drug organizations. These organizations are targeting Indian reservations, particularly, for the manufacture and distribution of methamphetamine and other drugs to reservation residents and nearby communities.

The Committee **supports** the Department's proposed funding increases for the following Public Safety and Justice programs, and in two cases, recommends additional funding over the budget request:

Safe Indian Communities Initiative: The FY 2009 budget proposes to continue and increase the Secretary's Safe Indian Communities Initiative by $2.9 million over the FY 2008 enacted level. With this increase, the total cumulative investment in the Initiative will reach $50.3 million. These funds will provide:

- Additional officers for law enforcement.
- Specialized drug training for existing officers.
- Support for public awareness campaigns for the Indian public.
- Additional resources to protect tribal lands located in the United States border.
- Additional social workers.

This initiative has proven successful in combating escalating methamphetamine production and trafficking.

Criminal Investigations and Police Services: The FY 2009 budget proposes an increase of $873,000 for criminal investigations and police services within the BIA. This increase would fund an additional 90 criminal investigators and police services personnel, even though there is an identified need for 1,056. In addition, the Committee notes that the BIA proposal would fill 64 BIA law enforcement personnel positions, and only 26 tribal law enforcement personnel positions. This allocation does not comport with the fact that Indian tribes operate 78% of BIA-funded law enforcement agencies pursuant to contracts and compacts; BIA operates 22% of the remaining agencies.

The Committee recommends that BIA Criminal Investigations and Police

Services be funded at $147.275 million, or $10 million over the FY 2008 enacted level. The additional funding should be used to hire and train additional BIA and tribal police and criminal investigators, and should be allocated evenly according to the needs of both BIA and tribal law enforcement agencies.

Detention/Correction Personnel: The FY 2009 budget requests an increase of $625,000 for additional hiring of BIA and tribal detentions/corrections officers to address the specific recommendations of the 2004 OIG report, referenced above. The Division of Corrections will implement more aggressive recruitment and retention programs to fill vacancies. This increased funding will go to hire 126 BIA detention personnel, and 20 tribal detention personnel. The Committee is concerned about the proportionality in allocating the funding between the BIA and tribal needs. The identified shortage at BIA-run facilities is 157, while at tribally-run facilities there is a shortage of 313, yet the BIA only directly operates 24 detention programs and funds 67 tribally-operated detention programs.

The Committee recommends that BIA Detentions/Corrections be funded at $74 million, or $10 million over the FY 2008 enacted level. The additional funding should be used to hire and train additional BIA and tribal detentions/corrections officers, and should be allocated evenly according to the needs of both BIA and tribal corrections facilities.

The Committee **opposes** the proposed decreases to the following programs:

Facilities Improvements and Repair: The FY 2009 budget request proposes a decrease of $2.9 million to the Public Safety and Justice Facilities Improvement and Repair subcategory. The Committee opposes this proposed decrease in funding and recommends that the BIA Public Safety and Justice Facilities Improvement and Repair program be funded at $20 million, which would be $9.1 million over the FY 2008 enacted level.

The goal of the program is to focus on improvements and repairs or renovations of the Bureau-owned detention and law enforcement facilities to correct critical health and safety deficiencies. The Department of the Interior's Office of Inspector General issued a detention facilities report in 2004 which pointed out the acute need for safe and secure tribal detention facilities, including the fact that 33% of BIA facilities are more than 30 years old. The report indicated that the majority of facilities were built to be short term holding facilities. These aged and decrepit facilities are only adding to the law enforcement dilemma in Indian country, and forgoing their repair and improvement will only cost the government more money in the long run.

Tribal Justice Support (Tribal Courts): The FY 2009 budget request proposes a

decrease of $2.5 million to the BIA Tribal Justice Support program. The Committee opposes this proposed decrease in funding and recommends that the BIA Tribal Justice Support program be funded at $15 million, which would be $700,000 over the FY 2008 enacted level.

The Tribal Justice Support program funds 288 Tribal Courts and BIA Courts of Indian Offenses, including the salaries and related administrative costs of judges, prosecutors, public defenders, court clerks, probation officers, juvenile officers, and other court support staff. This money is needed to hire judicial personnel who are crucial to the overall improvement of Indian country justice systems. Recruiting and retaining qualified judicial personnel and prosecutors has been a problem for Tribes and the BIA. This reduction will counteract the increases in law enforcement through the Safe Indian Communities Initiative.

ADEQUATE HEALTH CARE FOR INDIAN COUNTRY

Indian Health Service

In general, the FY 2009 budget request proposes an overall net decrease of $21.3 million below the FY 2008 enacted level for the Indian Health Service. This net decrease is entirely from the Indian Health Facilities account, which would be funded at a total of $353.3 million. For the Indian Health Services account, the budget request proposes the same level as the FY 2008 enacted amount of $2.97 billion.

The Committee is aware that the IHS Tribal Budget Formulation Workgroup, in its FY 2009 budget recommendations, proposed a $781 million increase for the Indian Health Service. This amount included not only funding increases for staffing of new facilities, but also program increases and increases for built-in costs. Other preliminary estimates indicate that more than $450 million is needed to maintain current services and mandatory cost increases, such as pay costs and inflation.

Built-In Costs: The FY 2008 budget proposed an increase of more than $270 million for IHS and tribal pay costs, inflation, population growth, and staffing and operating costs at two new health facilities, and to restore the FY 2007 base from the level of the President's FY 2007 request to the level of the FY 2007 Continuing Resolution.

By contrast, the FY 2009 budget request does not include $144.1 million in adjustments that IHS estimates is needed for IHS and tribal pay costs, medical inflation, and population growth (projected to be 1.5% for 2009). Unless additional funding is provided, these built-in costs will have to be absorbed by the IHS and tribal programs. The FY 2009 budget proposal

includes $25 million for staffing and operating costs of three newly constructed or expanded facilities. The Committee supports the requested $25 million for staffing of new facilities, and urges that additional funds be provided to cover built-in costs.

Indian Health Care Improvement Fund: The Committee supports the proposed $10 million increase to the Indian Health Care Improvement Fund. The proposed increase will be allocated to IHS and tribal sites that are funded at less than 40% of need to enable these sites to expand services and reduce backlogs for primary care. The Indian Health Care Improvement Fund received a $13.8 million increase in the FY 2008 Consolidated Appropriations Act, the first such increase in three years. (The Fund received a total of $110.3 million in FY 2005, FY 2006 and FY 2007, and $118.1 million in FY 2008.)
Dental Health: The Administration has requested a $4.3 million for Dental Health, which the Committee strongly supports.

The Committee's efforts in this and in previous Congresses to reauthorize the Indian Health Care Improvement Act have highlighted the true epidemic of dental disease in Indian communities, and in Alaska Native communities, in particular. This is the result of decades of inadequate access to dental care, along with other factors that contribute to the generally worse health condition of Indians as compared to the general population. According to a 2000 report of the Surgeon General, the incidence rates for periodontal disease among Indians were 2 1/2 times that of the general public. In Alaska Native communities, it is not uncommon for children to require extraction of all of their baby teeth due to pervasive caries. Nor is it uncommon for the nutritional status of Alaska Native elders to be compromised by their inability to consume healthy foods due to dental pain or missing teeth. This situation is exacerbated by a chronic shortage of dentists. The IHS dentist vacancy rate, as of January, 2007, was 31%, and the list of IHS dental vacancies listed more than 150 positions available for dental offices, pediatric dentists, community dental hygienists, and related staff.

Methamphetamine and Suicide Prevention and Treatment Initiative: In FY 2008, Congress appropriated $13.8 million for a new IHS methamphetamine and suicide prevention and treatment initiative. The kinds of programs Congress directed with the FY 2008 increase – methamphetamine prevention and treatment programs, suicide prevention and intervention programs, methamphetamine and suicide initiatives at the Residential Treatment Centers, and telemedicine technology – will not make a difference in addressing these issues if they are not sustained with a similar amount of funding in FY 2009.

The Committee appreciates the Service's efforts – including efforts in partnership with the Substance Abuse and Mental Health Services Administration - to address suicide prevention, as well as the crisis of methamphetamine production, distribution and use in Indian Country. Both

of these tragic issues shatter families, endanger children, and threaten the cultural and spiritual lives of Indian and Alaska Native people. The Committee supports the requested increase of $2.3 million to the Mental Health program to provide additional resources related to methamphetamine and suicide prevention as part of the Director's Behavioral Health Initiative. However, the Committee rejects the proposed reduction to the methamphetamine and suicide prevention and treatment initiative in the Alcohol and Substance Abuse program to a proposed level of only $2.5 million. The Alcohol and Substance Abuse Program provides preventative and treatment services at both community (tribal and urban) and clinic levels, incorporates holistic and culturally-appropriate approaches, and complements the Director's Behavioral Health Initiative. The Committee supports both components as complements in addressing these epidemic scourges of Native communities.

Indian Health Professions: The budget request proposes to reduce the Indian Health Professions program from $36.3 million in FY 2008 to a proposed level of $21.9 million for FY 2009. The Committee recommends that this proposed $14.4 million decrease in FY 2009 be restored, including the additional $5 million for the Loan Repayment Program that Congress appropriated in FY 2008. Proposed reductions to the Quentin N. Burdick American Indians into Nursing Program, the Indians into Medicine Program and the Indians into Psychology Program should also be restored.

The Committee notes that as of January, 2007, the Service's physician vacancy rate was approximately 17%, nursing vacancy rate was 18%, and, as noted above, the dental vacancy rate was at an all-time high of 31%. The Service itself admits that while the scholarship and loan repayment programs are not able to provide enough health care professionals to reduce vacancy rates, they do assist with meeting the staffing needs of hard to fill locations.

The Committee believes that the Loan Repayment Program has been valuable in attracting and retaining health professionals to Service facilities by assisting with qualified student loan debts in exchange for a two-year minimum service obligation at IHS or tribal sites.

Contract Health Services: Contract Health Services is proposed to receive an $8.8 million increase in the FY 2009 request. The Contract Health Services Program allows for the purchase of medical care and urgent health care services within IHS guidelines from private sector health care providers for IHS beneficiaries when health care and medical services are not available at IHS or tribal health facilities. This includes hospital care, physician services, outpatient care, laboratory, dental, radiology, pharmacy, and transportation services. However, there are many instances where care that is being sought is within IHS guidelines but is deferred, or denied. The unmet need for Contract Health Services is estimated to exceed $1 billion. In addition, the fact that the IHS is replacing the hospitals in its system with outpatient care facilities

heightens the need for Contract Health Services for hospital-based care.

The Committee has strongly supported recent increases for Contract Health Services. While we support the additional $8.8 million proposed for FY 2009, we note that this increase is roughly only one-third the amount needed to cover built-in costs ($30.1 million). Thus, the Committee recommends a larger increase of $50 million to cover built-in costs and to address some of the unmet need in deferred and denied services.

Urban Indian Health Program: At the Committee's recent hearing on the nomination of Robert McSwain to be the Director of the Indian Health Service, Mr. McSwain emphasized that the FY 2009 budget request's focus on providing clinical services to Indians on or near reservations justifies the proposed elimination of the programs serving urban Indians as well as a proposed reduction to Health Care Facilities Construction. The Administration has also included a recommendation of additional bill language in the Facilities account and in General Provisions to specify that services provided by the Indian Health Service are to be available specifically to federally-recognized Indian tribes, further suggesting that the federal government has no role in providing services to Indians living in urban areas.

However, providing health care services to urban Indians has been a part of federal policy for nearly 40 years. Congress specifically authorized urban Indian health programs as part of the Indian health care system in the original Indian Health Care Improvement Act of 1976. That statute recognized that the federal government's obligation for health care extends to these Native American individuals.

The Urban Indian Health Program funds Urban Indian Health Organizations that provide health services to eligible Indians in urban centers. The IHS is directed to fund these organizations based upon the documented and unmet needs of the urban American Indians and Alaska Natives communities they serve. The 2000 census indicated that as much as 66% of the American Indian and Alaska Native population lives in urban areas. The 34 urban Indian organizations serve approximately 150,000 eligible Indian users at 41 sites throughout the U.S. 20 of the 34 Programs offer direct health care services, such as dental, pharmaceutical, vision, alcohol or mental health treatment, suicide prevention and family wellness. The remaining 14 Programs provide health education, information and referral assistance.

Despite the statutory directive to operate the Urban Indian Health Program, the Administration proposes in FY 2009, as was proposed in FY 2007 and FY 2008, to eliminate the program, and to direct funding resources instead solely to Indian people living on or near reservations.

The Committee recommends that FY 2009 funding for the Urban Indian Health Program be provided at $40 million. The Committee remains convinced that these urban Indian health programs provide health services in a cost-effective manner, and that, without them, many urban Indians would not seek care or would delay seeking proper medical attention until their health problems become emergencies. The Committee also does not share the Administration's view that Community Health Centers have the capacity to meet the needs of these American Indians and Alaska Natives living in urban areas. To the contrary, providing culturally-relevant care and serving as a gathering place for Indians from diverse tribal backgrounds who are away from their reservation communities are unique roles played by the urban Indian health organizations, and are not available from Community Health Centers.

Health Care Facilities Construction: For the Indian Health Facilities account, the budget request proposes a total of $353.3 million, which is $21.3 million below the FY 2008 enacted amount of $374.7 million. Almost all of this proposed decrease, or $20.8 million, comes out of the Health Care Facilities Construction account. The budget request will provide funding of $15.8 million to continue construction of the Barrow, AK, hospital project. IHS estimates suggest, however, that this stage of construction at the Barrow facility would more adequately be funded at $28 million in FY 2009. In addition, other projects funded in FY 2008 in California and South Dakota, as well as the small ambulatory and dental facilities programs are not proposed to receive FY 2009 funding. It has been estimated that nearly $70 million is needed to fund these projects adequately.

An inadequate health care facilities construction budget not only hinders the delivery of care to Native Americans, but affects the workforce of health care professionals needed to work at IHS and tribal facilities. The Committee would urge that an additional $50 million over the budget request be provided in FY 2009 for Health Care Facilities Construction to address some of this need.

ENERGY AND ECONOMIC DEVELOPMENT IN INDIAN COUNTRY

A diversified economy will boost other tribal services and improve the quality of life in Indian communities. Despite recent commercial successes in business development, energy ventures, and other business opportunities, many tribes still suffer from a severe lack of jobs and high unemployment. It is well-documented that Native entrepreneurs and communities lack access to capital for both home mortgages and commercial purposes. Federal programs assisting tribal governments to diversify their under-developed economies and build needed infrastructure are vital.

Department of Energy/Department of Interior

Indian Energy: The Committee recommends that additional funding be appropriated in FY 2009 to continue advances made in Indian energy development and oversight by the *Indian Energy Development and Self-Determination Act*, Title V, of the *Energy Policy Act of 2005*. Title V provided comprehensive reform with respect to energy development on tribal lands. Investments in tribal capacity to develop energy resources on tribal lands enhance the economic vitality of tribal communities by enabling tribes to partake in non-gaming economic development activities.

Title V authorized financial, technical, and environmental reforms that are carried out by the Department of Interior's Office of Indian Energy and Economic Development (OIEED) and the Department of Energy's Office of Indian Energy Policy and Programs (OIEPP). The centerpiece of Title V is the creation of a new land leasing regime which promotes greater tribal control and oversight of energy activities through Tribal Energy Resources Agreements (TERA). Once in place, a Tribal Energy Resources Agreement allows an Indian tribe to negotiate and execute leases, lease renewals, and other business agreements without specific review and approval of the Secretary of Interior. The Office of Indian Energy and Economic Development is charged with assisting tribes in developing the governing capacity to engage in energy development and approving Tribal Energy Resources Agreements.

The FY 2008 Consolidated Appropriations Act provided a total of $2 million for the Interior Office of Indian Energy and Economic Development. $1.4 million was provided to develop tribal capacity for energy resource development as well as protect the environment and $600,000 was provided for administrative expenses to process Tribal Energy Resources Agreements. To ensure that these complicated agreements receive timely and adequate review, the Committee recommends that $4 million be provided to the Office in FY 2009.

Title V authorizes the Office of Indian Energy Policy and Programs at the Department of Energy to promote energy development, reduce energy costs, strengthen energy infrastructure, and enhance electrical power and service to Indian tribes. Title V authorizes the creation of an Indian Energy Guaranteed Loan Program. To encourage renewable and non-renewable resource development, the Committee recommends that $15 million be provided to carry out this program.

The FY2008 Consolidated Appropriations Act included $6 million for renewable energy activities at the Department of Energy. To ensure that advances in renewable energy continue, the Committee recommends supporting renewable energy programs at a level of $8.5 million in FY2009.

Department of the Treasury

CDFI Native American Program: The President's budget eliminates the Native American Set-Aside under the Community Development Financial Institutions (CDFI) Fund in FY 2009. The FY 2008 enacted level for the Native American Set-Aside was $8 million, which will be used to leverage approximately an additional $100 million in private sector investment in Indian Country. These investments are particularly important to Indian communities where there is not only a lack of private sector investment but a lack of access to any financial institutions. Many Indian communities lack a single financial institution within their borders and for some tribes, an ATM or local bank branch is over 100 miles away.

Investment in the CDFI Fund deepens the impact of a growing sector that provides financial services and supports economic development in Indian communities. Native CDFIs often serve as the sole financial and non-profit institution in their communities, providing critical access to capital, financial education and other services for tribal citizens. The Treasury Department has documented that for every dollar a CDFI receives through the CDFI Fund program, the CDFI leverages $27 in private sector investment. Therefore, the Committee requests that funding be restored to the CDFI Native American Set-Aside to the FY 2008 level of $8 million.

Bureau of Indian Affairs

Indian Guaranteed Loan Program Account: Despite recent commercial successes in business development, energy ventures, and other opportunities, many tribes still suffer a severe lack of jobs and high unemployment. It is well-documented that Native entrepreneurs and communities lack access to capital for both home mortgages and commercial purposes. The Indian Guaranteed Loan Program helps Indians gain access to capital by guaranteeing and insuring loans from the private sector to promote economic development for tribes, individual Indians and Alaska Natives. The Indian Guaranteed Loan Program is one of the most successful federal economic development programs in providing Native communities access to private sector capital.

The FY 2009 budget proposes to increase the Indian Guaranteed Loan Program by $2 million in program subsidy for a total of $8.2 million. This program leverages appropriated dollars at a 13 to 1 ratio. The Loan Guarantee Program supports the development of Indian-owned businesses, which in turn will create and sustain jobs to benefit Indian communities. High priorities are construction of buildings, recreational attractions and resort facilities. This program has generated jobs and employment opportunities from the resulting growth and expansion of reservation economies. Although these funds will guarantee outstanding loan authority of up to $85 million, this funding has been historically inadequate for the demand for private sector investment.

The Committee notes that the FY 2009 budget is the first increase for the Indian Guaranteed Loan Program since FY 2004. Historically, this effective program has not kept up with inflation. The Committee believes that this program has clearly demonstrated its ability to promote economic development and job creation on reservations and appreciates that FY 2009 funding for this program has been increased to keep up for inflation. The increase maintains the dollar amount of loans that can be guaranteed. This amount would have been reduced in 2009 without additional funding due to an improved computer model for calculating the subsidy rate. The Committee believes that this additional guarantee authority would sharply increase the number of economic development projects on reservation lands and spur further private sector investment in Indian country.

Indian Reservation Roads Maintenance: The Indian Reservation Road Maintenance program provides maintenance of Bureau of Indian Affairs roads and bridges constructed under the Indian Reservation Roads Program. This program provides safe accessibility to health and educational facilities, tourism, employment, recreation, and economic development opportunities in Indian country. The FY 2009 budget proposes to reduce the Indian Reservation Road Maintenance Account (IRR) funding by 51% to $13 million from the FY 2008 enacted level of $25.5 million.

The budget justification states that the FY 2008 funding level is not needed due to identical funding available from the Department of Transportation that is granted to tribes which may choose to use up to 25 percent of the funds for maintenance of Indian Reservation Roads, including those owned by the BIA. The purpose of the reduction is to reduce up to 85 full- time employees at most region and agency offices who work in road maintenance because of more tribal governments taking over the Indian Reservation Roads Maintenance program under Self-Determination Act contracts and Self-Governance compacts.

The Committee does not support the decrease in Indian Reservation Roads Maintenance Program funding, because many individual Indian tribes who do use the entire portion of their 25% IRR funding formula for road maintenance do not have extra funding to pay for maintenance projects on BIA-owned roads. In addition, under the Safe Accountable Flexible Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU, Pub.L. 109-59), Congress expressly stated that the BIA still would continue to retain primary responsibility, including annual funding request responsibility for road maintenance programs in Indian reservations.

In addition, more BIA road maintenance funding is needed for safety of Indian reservation roads. While the number of fatal crashes on federal highways has declined 2.2 percent from 1975 to 2002, the number of fatal motor vehicle crashes per year on Indian reservations increased 52.4 percent.

These statistics illustrate the need to further maintain BIA roads. The Committee recommends that the Indian Reservation Roads Maintenance Program Account for FY 2009 be restored to the full $25.5 million that was appropriated in FY 2008.

Office of Special Trustee

Indian Land Consolidation Program: The FY 2009 budget proposes to eliminate funding for the Indian Land Consolidation Program, which was funded in FY 2008 at $9.8 million. The Committee is deeply concerned about this proposed elimination, and recommends that the Indian Land Consolidation Program be continued at the FY 2006 enacted level of $34.5 million.

The Indian Land Consolidation Program reduces land fractionation by consolidating highly fractionated parcels of Indian-owned trust lands within the boundaries of reservations and restoring them to tribal ownership. The purchase of fractionated interests, which is an important part of the Department of the Interior's trust reform efforts, not only restores lands to tribal ownership, but also reduces record-keeping and otherwise unavoidable expenses required in administering tens of thousands of small fractional interests in land. The purchase of these interests also reduces the number of individual estates subject to probate by the Department.

In FY 2007, during *Cobell* settlement discussions, the Administration indicated that land fractionation was a priority and, in fact, requested $59.4 million. Yet, only two years later, the FY 2009 budget request proposes to eliminate this funding while the Administration plans to work with Congress on an alternative approach to consolidation.

Improving the consolidation efforts are encouraging; however, the Committee is concerned about how further delays in consolidating land parcels will affect the overall success of the program or of these new approaches. The Department should continue buying fractionated interests in the interim.

MEETING BASIC NEEDS IN INDIAN COUNTRY

Department of Housing and Urban Development

NAHASDA Block Grant Program: The Native American Housing Assistance and Self-Determination Act (NAHASDA), enacted in 1996, is the primary statutory authority under which the federal government carries out its responsibility to provide housing to American Indian and Alaska Natives. NAHASDA reorganized the system of federal housing assistance to Native Americans by eliminating several separate programs and replacing them with a single block

grant. NAHASDA provides block grants to Indian tribes or their tribally designated housing entities (TDHEs) on a formula basis for affordable housing activities, including the purchase, modernization, or construction of housing units, as well as rental and homeowner assistance. The Act is being considered for reauthorization in 2008.

The Committee is concerned about the gradual erosion of funding for the NAHASDA block grant program over the past several years. The block grant program was funded at $654 million in FY 2004, $622 million in FY 2005, and $624 million in FY 2006. The Committee appreciates that the FY 2007 Continuing Resolution funded the block grant program at $628 million, and that the FY 2008 enacted amount was $630 million. However, with the rate of inflation and because of the proposed elimination of the Housing Improvement Program in the BIA proposed again in the budget request, the FY 2009 requested amount of $627 million will result in fewer homes being built for an Indian population that is growing and is in need of safe, decent and affordable housing.

The housing needs of tribal communities are acute. Approximately 90,000 Indian and Alaska Native families are homeless or inadequately housed; nearly 15% of homes in tribal areas are overcrowded, compared to 5.7% of homes of the general U.S. population, according to the 2000 Census. It is estimated that nearly 200,000 housing units are immediately needed to provide adequate housing in tribal areas.

Indian tribes have utilized their limited NAHASDA Block Grant Program funds in innovative ways, and have been successful in addressing the urgent housing needs in Indian country, proving that investment in this program shows returns. Housing is one of the three basic needs and we are not meeting this need in Indian country with current funding levels. Given these statistics, we recommend that programs under the Act be funded in FY 2009 at $660 million, $33 million over the budget request, which would take in to account appropriate adjustments for inflation.

NAHASDA Technical Assistance and Training: Technical assistance and training have been key components of making the Native American Housing Assistance and Self-Determination Act (NAHASDA) as successful as it has been over the past decade. Congress recognized the need for such activities and cost efficiencies in NAHASDA by authorizing funding "for assistance for a national organization representing Native American housing interests for providing training and technical assistance" (25 U.S.C. 4212). The major provider of technical assistance and training to the Native American community is the National American Indian Housing Council (NAIHC), a 35-year-old consortium of more than 460 tribes and Alaska Native villages that provides assistance to tribal housing authorities and tribally-designated housing entities. Training and technical assistance are effective tools in maintaining compliance with

NAHASDA's exacting statutory or regulatory requirements, with results such as enabling tribal housing authorities to stay audit-free. NAIHC has also addressed new issues facing the tribally-designated housing entities, such as identification and remediation of methamphetamine use in tribal housing. Approximately 5,000 tribal housing staff participated in NAIHC trainings in FY 2005 and 2006.

In FY 2005, the NAIHC received $4.6 million in the Indian Housing Block Grant to provide technical assistance and training; that amount was reduced to $2 million in FY 2006, $1 million in FY2007, and $1.9 million in 2008. The FY 2009 budget proposes to eliminate federal support for these much-needed activities. The Committee supports continued funding for the Council to provide technical assistance and training at $4 million in FY 2009.

Indian Community Development Block Grant: The Indian Community Development Block Grant (ICDBG) program within the Community Development Block Grant is a competitive grant program that funds direct grants for use in developing viable Indian and Alaska Native communities, including housing and economic opportunities for low and moderate income persons. Indian and Alaska Native tribal governments traditionally receive one-percent of CDBG funds. However, given the role this program plays in building critical economic development infrastructure in Indian Country, we recommend that the program be increased by $20 million from the recommended level of $57 million to $77 million in FY 2009.

Environmental Protection Agency

The FY 2009 budget proposes to decrease funding for programs and projects that provide clean water and sanitation to tribal communities. The Committee is particularly concerned about decreases in the Clean Water State Revolving Fund (CWSRF) and in funding for Alaska Native villages infrastructure. The Committee is concerned because the Indian Health Service's Sanitation Facilities Construction Program 2005 Annual Report stated that in order to meet the IHS strategic goal of raising the percent of American Indian and Alaska Native homes with safe water to 94% by 2010, a significantly larger increase in sanitation project and staff funding is required.

Clean Water State Revolving Fund: The Clean Water State Revolving Fund helps both states and tribes meet their significant infrastructure needs by funding the construction of wastewater treatment facilities and other water projects, including non-point source, storm water, and sewer overflow. The total funding proposed for states and tribes in FY 2009 is $555 million, a $134 million decrease in funding from FY 2008. Tribes receive a set aside of 1.5% of CWSRF funds, which would total only $8.3 million for FY 2009 under the request. In 2006, the Indian Health Service estimated that $684 million was needed to correct inadequate and non-compliant wastewater systems or to

construct systems where none currently exist. The Committee is concerned that the proposed FY 2009 level of funding is inadequate for the Fund, and recommends that level funding, as provided in FY 2008, be maintained at $689 million, adjusted for inflation.

Water for Alaska Native Villages: The State and Tribal Assistance Grants program's infrastructure assistance program component provides for construction of wastewater and drinking water facilities to address serious sanitation programs in Alaska Native villages. The Environmental Protection Agency estimates that more than 20,000 homes in Native villages lack basic sanitation facilities. This budget request reflects a decrease of $9.1 million from the previous year. In 2006, the Indian Health Services estimated that it would cost more than $340 million to address the worst deficiencies in Alaska villages, which have inadequate or non-compliant wastewater treatment systems and lack safe water supply and sewage disposal systems. The Committee is deeply concerned that the $15.5 million proposed for FY 2009 is grossly inadequate to address the worst sanitation problems confronting Alaska villages. In FY 2008, $24.6 million was appropriated for Alaska Native villages and the Committee recommends that level funding be maintained for FY 2009, adjusted for inflation.

Bureau of Indian Affairs

Housing Improvement Program: The FY 2009 budget proposes to eliminate the Housing Improvement Program (HIP). The overall $13.6 million decrease is made up of a $13.6 million reduction for the main HIP program and is a severe reduction in much needed housing funding.

The budget justification states that this proposed elimination is due to the program servicing a limited number of tribes and eligibility overlapping between the Housing Improvement Program and the Native American Housing Assistance and Self-Determination Act Block Grant Program. However, BIA has not identified which eligibility criteria overlaps or duplicates these programs. Likewise, the Committee has not been informed that leveraging funding for the two programs overlaps or duplicates the programs, particularly when the HIP program funding may assist homes which may not have been provided housing assistance under the NAHASDA program.

The Committee does not support this proposed program elimination, because the HIP program funding serves the neediest individual Indians who are not able to meet tribal standards for HUD housing programs. The HIP program provides funding for Indians who need housing repairs and renovations of existing homes, construction of a modest replacement home, or construction of a modest home for an Indian family who does not own a home, but who has ownership in or a lease interest on land suitable for housing. We recommend that the HIP program be maintained at the current level of $13.6

million.

Welfare Assistance: The FY 2009 budget proposes to reduce the general welfare assistance by a total of $21.9 million from the FY 2008 level of $79 million. This assistance is provided to Indians who either have no access to or do not meet eligibility criteria for welfare benefits from any other county, state or federal welfare programs. Decreasing these benefits may leave individuals without any resources to provide for themselves or their families.

Johnson-O'Malley Grants: The Johnson O'Malley program provides supplemental educational grants to tribes with students attending public schools. This program provides assistance to Indian tribes and public schools for basic educational needs of Indian children, such as school supplies, nominal clothing subsidies, transportation, and after-school programs that provide tutoring and counseling, which have been unavailable under the No Child Left Behind Act. The program administrators at the local schools may also serve as liaisons between the Indian parents or students and school administrators, to boost students' chances for success. The funds are used by tribes to pay for things such as eyeglasses for students; school supplies; scholastic testing fees; and Native youth leadership programs. BIA says that the funding is duplicative of other grants offered by the Department of Education, but the Committee has seen no evidence of this.

The FY 2009 budget request proposes a reduction of $21.4 million for JOM in the BIA budget (including an elimination of JOM funds for the Consolidated Tribal Government and Self-Governance Programs). The Committee recommends restoration of funding at the FY 2006 level of $24.1 million for this culturally-relevant program for Indian students.

Education Construction: Within the total of $115.4 million requested for Education Construction, the proposed budget for FY 2009 includes $22.4 million for Replacement School Construction, a $24.3 million reduction from FY 2008.

There remain over 60 Bureau-funded schools which are still in poor condition, yet these may be the only buildings available for educating the children. The Committee recommends that funding for Education Construction be increased $27.6 million over the budget request, to maintain the program at the same funding level provided in FY 2008.

Tribal Technical Colleges: The Committee is disturbed that, as the Administration proposed in the FY 2007 and FY 2008 budget requests, no funding is requested in FY 2009 for the tribal technical colleges, United Tribes Technical College (UTTC) and the Navajo Technical College (NTC). Additionally, the Administration requested no funding for the Carl Perkins program in the Department of Education which provided funding for UTTC and NTC in prior

years. UTTC and NTC have demonstrated high levels of success in educating Indian students. The Committee urges that funding of $4.5 million be provided for UTTC and $2.5 million for NTC.

Scholarships and Adult Education: These programs provide financial assistance to improve the success of students at each education level and to obtain a GED or obtain basic skills necessary to transition to community college or job placement. The Committee recommends that funding be funded at the FY 2008 level of $29.6 million.

Tribal Colleges and Universities: Tribal colleges and universities provide a wide array of educational degrees and programs and are located in Indian communities, thereby providing greater access to higher learning for Indian students. Of the 26 schools, all of them provide Associate degrees and several offer Bachelor's and Master's degrees in such disciplines as Business Management. In FY 2009, it is projected that tribal colleges will provide educational opportunities to over 25,000 individual students.

The Haskell Indian Nations University, through the Bureau of Indian Education, is a four-year institution which offers Associate degrees and Bachelor's degrees in Elementary Education and Business Administration, among others. Haskell provides unique opportunities which Indian Country can capitalize on through elementary education degrees designed to "grow your own" teachers for Bureau-funded schools, which in turn increases the potential for compliance with the No Child Left Behind Act, and provides an educated Indian workforce. In addition, through the Business Administration track, Haskell also contributes to the economic well-being of Indian tribes by preparing students to take leadership and management roles.

The Southwestern Indian Polytechnic Institute provides Associate degrees transferable to other universities in education and business. The SIPI also prepares skilled and trained individuals through certificate programs.

The need for tribal economic development, health care and other leadership professionals suggests that tribal colleges should be funded at levels sufficient to overcome the barriers associated with the remote locations of these schools, such as recruitment, retention and distance learning, and the advanced requirements of competitiveness in the global economy. Moreover, the Committee anticipates that the additional economic development initiatives being advanced this year will place these institutions of higher learning in greater demand by Indian students and tribal leaders and communities.

Therefore, the Committee recommends that the Tribally-Controlled Colleges be funded at $59.7 million, which is 5% increase over the FY 2008 enacted amount. Likewise, the Committee recommends that Haskell be funded at $12 million, which is a $1.56 million increase over the budget

request. We further recommend that SIPI be funded at $8 million, which is an increase of $1.6 million over the budget request.

Department of Education

The Committee notes that there is no increase in the FY 2009 funding request for Indian education programs at the Department of Education. The funding request either maintains current levels, proposes slight decreases or, in many cases, proposes elimination. These programs fund such activities and services as public school programs for Indian children; funding for tribal colleges and tribal post-secondary vocational and technical colleges; supplemental education programs for Native Hawaiian and Alaska Native children; and improvement and expansion the capacity of Alaska Native and Native Hawaiian serving post-secondary institutions.

As the Administration has acknowledged, most American Indian and Alaska Native students attend schools in small towns and rural areas. These schools face increased challenges in meeting the requirements of the No Child Left Behind Act, ranging from the difficulties of recruiting and retaining highly qualified teachers to work in rural areas, to higher transportation costs to cover gasoline and vehicle maintenance and repair.

Unfortunately, the proposed FY 2009 funding levels do not consider the growing American Indian and Alaska Native population, the cost of inflation or other factors unique to the education of Indian students. Because of this, the proposed FY 2009 funding levels for Indian education programs are disappointing.

Title VII, No Child Left Behind: We request a modest increase of 5% (or $9.3 million) over the FY 2008 enacted level of $186.2 million for a total of $195.5 million for Title VII, Native Education. No Child Left Behind Title VII provides critical support for culturally-based educational approaches for Native students, and has produced many success stories in bridging the achievement gap for these students.

We also request that funding Education for Native Hawaiians and Alaska Native Education Equity be restored and increased as part of the overall 5% increase proposed under Title VII above.

Strengthening Tribally Controlled Colleges and Universities: The Committee recommends that funding for Tribal Colleges and Universities be restored and increased to $35 million in FY 2009 to fund basic development and construction grants. Tribal Colleges and Universities serve some of the most impoverished areas of the country, yet are the most poorly funded post-secondary institutions. These young institutions have dramatically increased access to higher education for American Indians, but are in great need of

additional funds for infrastructure, facilities, faculty, curriculum development and student services. As noted above, these tribal colleges serve a useful purpose by bringing higher educational opportunities to remote Indian communities, by preparing Indian students for future leadership roles, and by supporting tribal economic endeavors. This recommended amount in FY 2009 will help to bridge the gap that tribal economies experience and to prepare them for advanced competitiveness.

In addition, the Committee disagrees with the proposed eliminations of the following Department of Education programs serving Native Americans, and urges their restoration:

- Education for Native Hawaiians: This program funds supplemental education programs for Native Hawaiian children, such as family-based education, special education, gifted and talented education, higher education, curriculum development, teacher training and recruitment, and community-based learning. This program was previously funded at $33.3 million.

- Alaska Native Equity Education: This program funds supplemental education programs for Alaska Native children, including educational planning, curriculum development, teacher training, teacher recruitment, student enrichment, and home-based instruction for pre-school children. This program was also previously funded at $33.3 million.

- Strengthening Alaska Native- and Native Hawaiian-Serving Institutions: This program funds post-secondary programs for Alaska Native- and Native Hawaiian-Serving Institutions to improve and expand their capacity to serve students. This program was funded at nearly $12 million in FY 2007 and FY 2008.

- Tribally Controlled Post Secondary Career and Technical Institutions: Funds operation and improvement of tribally controlled post-secondary vocational and technical institutions to ensure continued and expanded access to higher education for American Indian students. This program was funded at $7.5 million in FY 2008.

CONTRACT SUPPORT COSTS FOR BIA and IHS

For contract support costs, the FY 2009 budget request proposes $271.6 million for the Indian Health Service, and $147.3 million for the Bureau of Indian Affairs. The Committee supports fully funding these costs. Currently, there is an estimated shortfall of $110 million for IHS contract support costs

and $40 million for BIA contract support costs that have built up over the years.

These costs provide for the financial and personnel systems and other administrative overhead which support the program administration undertaken by the tribes through contracts and compacts pursuant to the *Indian Self-Determination and Education Assistance Act.* Without full funding, Indian tribes are forced to divert funding from direct services to cover the support costs.

Again, the Committee on Indian Affairs appreciates the opportunity to provide our views on and recommendations for the FY 2009 budget request and budget resolution. We look forward to continuing to work with the Budget Committee to ensure that programs that serve American Indians and Alaska Natives are adequately funded.

Sincerely,

Byron L. Dorgan
Chairman

Lisa Murkowski
Vice Chairman