

**THE PRESIDENT'S FISCAL YEAR 2013 BUDGET  
FOR NATIVE PROGRAMS**

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**HEARING**

BEFORE THE

**COMMITTEE ON INDIAN AFFAIRS**

**UNITED STATES SENATE**

**ONE HUNDRED TWELFTH CONGRESS**

SECOND SESSION

—————  
MARCH 8, 2012  
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# THE PRESIDENT'S FISCAL YEAR 2013 BUDGET FOR NATIVE PROGRAMS

THURSDAY, MARCH 8, 2012

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

The Committee met, pursuant to notice, at 4:35 p.m. in room 628, Dirksen Senate Office Building, Hon. Daniel K. Akaka, Chairman of the Committee, presiding.

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

The CHAIRMAN. The Committee will come to order.

Aloha and welcome to the Committee's oversight hearing on the President's Fiscal Year 2013 Budget for Native Programs.

In these difficult economic times, the President's budget request for fiscal year 2013 reflects a continued commitment to strengthen Tribal nations, advance Indian education and support and expand health care services.

However, it is important to remember that the Federal Government has a trust responsibility to Indian Tribes, even during an economic recovery. This trust responsibility is especially important to remember if the sequester occurs at the beginning of 2013 which would require across the board cuts in the majority of programs at government agencies. This could have a devastating effect on Tribal programs which are chronically underfunded, even during prosperous times.

I was especially pleased to see that the President's budget included a legislative recommendation to address the *Carcieri* decision. Fixing the *Carcieri* decision remains a top priority of the Committee and the Administration. Righting this wrong will cost no money and will, in fact, be instrumental in saving and creating jobs and bringing economic development opportunities in Indian Country.

Today we will hear from the Department of Interior and the Indian Health Service on the President's budget. And we will hear from several Tribal organizations on the impact this budget will have on Tribes in their area.

As this hearing impacts all Tribal nations, I would like to emphasize the importance of submitting comments or written testimony for the record. The hearing record will remain open for two weeks from today.

Now I would like to invite our first panel to the witness table. Serving on our first table is the Honorable Larry Echo Hawk, Assistant Secretary for Indian Affairs at the Department of Interior. Accompanying Secretary Echo Hawk are Mr. Mike Smith, Deputy Director of the Bureau of Indian Affairs and Keith Moore, Director of the Bureau of Indian Education. Next we welcome the Honorable Yvette Roubideaux, Director of the Indian Health Service in the Department of Health and Human Services. Accompanying Dr. Roubideaux is Mr. Randy Grinnell, Deputy Director of the Indian Health Service.

Let me just thank you for your patience and I have been looking forward to this hearing. Secretary Echo Hawk, will you please proceed with your testimony?

**STATEMENT OF HON. LARRY ECHO HAWK, ASSISTANT SECRETARY FOR INDIAN AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR; ACCOMPANIED BY: MIKE SMITH, DEPUTY DIRECTOR, BUREAU OF INDIAN AFFAIRS AND KEITH MOORE, DIRECTOR, BUREAU OF INDIAN EDUCATION**

Mr. ECHO HAWK. Thank you, Chairman Akaka. We have previously submitted a written statement, but I will summarize my statement to begin with.

We thank you for this opportunity to provide the Department's statement on the Fiscal Year 2013 President's budget request. The 2013 budget request for Indian Affairs within the Department of Interior totals \$2.5 billion in current appropriations. This is \$4.6 million below last year's enacted level which amounts to a reduction of two-tenths of 1 percent.

As you know, Indian Affairs meets with Tribes on a quarterly basis on the budget through the Tribal Interior Budget Council. Through this informed consultation with Tribes we included in this budget request \$43.8 million in program increases in priority areas, such as contract support costs, rights protection implementation and law enforcement. And Chairman Akaka, there are some reductions in the budget.

The Indian Affairs 2013 budget request continues to provide funding for two of the Department's priority initiatives, strengthening Tribal nations and A New Energy Frontier. This budget request seeks an increase of \$43.8 million for strengthening Tribal nations. Within this initiative, we plan to advance nation to nation relationships by seeking \$12.3 million in programmatic increases for contract support costs and for the Indian Self-Determination Fund and Indian land and water claims settlements for continued work on the Navajo-Gallup water project.

We also plan to continue protecting Indian Country by seeking an additional \$11 million in public safety funding. With that increase, \$3.5 million will go toward hiring additional Tribal and Bureau of Indian Affairs law enforcement personnel, and \$6.5 million will pay for staff increases at newly-constructed Tribal and Bureau detention centers.

This request also supports the expansion of a highly successful pilot program launched in 2010 that saw a 35 percent reduction in violent crime for four reservations with high violent crime rates. The Department also seeks an increase of \$5.2 million for our edu-

cation activities. Two million dollars will go toward Tribal grant support costs, which cover administrative and indirect costs, at 125 Tribally-controlled schools and residential facilities.

To continue with the New Energy Frontier initiative, the 2013 budget request provides a total of \$8.5 million to support energy resource development on Tribal lands. Of this total, \$6 million is provided for renewable energy projects and the remaining \$2.5 million is intended to provide for conventional energy and audit compliance in support of leasing activities on the Fort Berthold Reservation.

We did have to make some difficult choices in this budget request. We requested \$19.7 million less for streamlining measures, which we anticipate will come from savings from eliminating duplicative and overlapping functions. The \$13.8 million reduction will come from anticipated management efficiencies.

The Department's requested reduction of \$33.1 million is for program decreases, which includes \$2.6 million less for law enforcement special initiatives, and \$6.1 million less for information resource technology and other programs.

In education-related activities, we seek a decrease of \$4.5 million for ISEP funding to reflect a slight decline in student population and we request \$17.8 million less for new school construction funding. The budget provides \$5 million for the Indian Guaranteed Loan Program, which is a reduction of \$2.1 million from the 2012 enacted level.

Overall, the 2013 budget reflects a fiscally responsible balance of the priorities expressed by Tribes during the consultation together with the broader objectives of the Administration. The 2013 budget continues to focus on core responsibilities to Indian Tribes and Alaska Natives through programs and services that are vital to Indian Country.

This budget focuses on priority areas in Indian Country and honors the Federal Government's obligation to Tribal nations in a focused and informed manner. The best example of this is by the inclusion of the *Carcieri* fix language in the 2013 budget request, just as it was requested in 2012.

Thank you very much. I would be happy to respond to questions.  
[The prepared statement of Mr. Echo Hawk follows:]

PREPARED STATEMENT OF HON. LARRY ECHO HAWK, ASSISTANT SECRETARY—INDIAN AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR

Good afternoon, Chairman Akaka, Vice Chairman Barrasso, and members of the Committee. Thank you for the opportunity to provide the Department of the Interior's (Department) statement on the Fiscal Year (FY) 2013 President's Budget request that was released on February 13, 2012 for Indian Affairs' programs in the Department. The FY 2013 budget request for Indian Affairs programs within the Department totals \$2.5 billion in current appropriations. This is \$4.6 million below the FY 2012 enacted level, or a reduction of less than one percent. Informed by consultation with the Tribes, the budget includes \$43.8 million program increases in priority areas including contract support costs, rights protection implementation, and law enforcement. There are also reductions of \$66.9 million, comprised of a reduction of \$19.7 million as a result of streamlining measures, \$13.8 million in management efficiencies, and \$33.1 million in program reductions.

Overall, the 2013 Indian Affairs budget reflects a fiscally responsible balance of the priorities expressed by Tribes during consultation and broader objectives of the Administration, as well as demonstrated program performance, and realistic administrative limitations. The 2013 budget focuses on core responsibilities to American Indians and Alaska Natives through programs and services that are vital to Indian

Country and that benefit the greatest number of Indian people on a nationwide basis. The budget focuses on priority areas in Indian Country and honors the Federal Government's obligations to tribal nations in a focused and informed manner. Also, like he did FY 2012, President Obama's FY 2013 budget proposal includes *Carcieri* fix language signaling his strong support for a legislative solution to resolve this issue.

As the Assistant Secretary for Indian Affairs, I have the responsibility to oversee the numerous programs within the Bureau of Indian Affairs (BIA) and the Bureau of Indian Education (BIE), along with other programs within the immediate Office of the Assistant Secretary for Indian Affairs. The Office of the Assistant Secretary for Indian Affairs, BIA, and BIE programs expend over 90 percent of appropriated funds at the local level. Of this amount, at least 62 percent of the appropriations are provided directly to Tribes and tribal organizations through grants, contracts, and compacts for Tribes to operate government programs and schools. Indian Affairs' programs serve the more than 1.7 million American Indian and Alaska Natives living on or near the reservation.

The Indian Affairs FY 2013 budget request continues to provide funding for two of the Department's priority initiatives: Strengthening Tribal Nations and New Energy Frontier.

#### **Strengthening Tribal Nations**

This budget request includes an increase for \$43.8 million for the Strengthening Tribal Nations initiative. This initiative takes a multi-faceted approach to advance Nation-to-Nation relationships, protects Indian communities, advance Indian education, and reforms trust land management, with the ultimate goal of greater tribal self-determination and self-governance. This initiative has been highlighted over the past three years as President Obama and his Administration have engaged in direct dialogue with tribal nations. Held in November 2009, December 2010, and December 2011, at the Department's Yates Auditorium, over 400 tribal leaders have attended each White House Tribal Nations Conference.

#### *Advancing Nation-to-Nation Relationships*

The Administration seeks \$12.3 million in programmatic increases for contract support costs, Indian Self Determination funds, Indian Land and Water Claim Settlements and continued work on the Navajo-Gallup Water Supply Project. The \$8.8 million increase for contract support complements the top priority identified by many tribal nations through Tribal Interior Budget Council meetings held quarterly throughout the calendar year. Funding contract support and self-determination will strengthen the capacity of Tribes to manage the Federal programs for which they contract, as well as eliminate the need for Tribes to use program funds to fulfill administrative requirements. The requested increase reflects 100 percent of current estimated contract support need. The remaining \$3.5 million increase is for Indian and Water Claims Settlements, with \$3.4 million of that funding requested for the Navajo-Gallup Water Supply Project.

#### *Protecting Indian Country*

The BIA supports 193 law enforcement programs throughout the nation; within the 193 programs, there are 6 district offices and 187 programs performing law enforcement services consisting of 36 BIA-operated programs and 151 tribally-operated programs. Approximately 78 percent of the total BIA Office of Justice Services (OJS) programs are outsourced to Tribes.

The FY 2013 budget request seeks an additional \$11.0 million in public safety funding over the FY 2012 enacted level. Within the increase, \$3.5 million is for hiring additional tribal and bureau law enforcement personnel and \$6.5 million will fund staff increases at newly constructed tribal and Bureau detention centers. This request also supports the expansion of a highly successful pilot program launched in 2010 to reduce crime on four reservations with high violent crime rates. The targeted, intense community-safety pilot resulted in a combined reduction in violent crime of 35 percent which exceeded the project's goals. The budget also requests an additional \$1.0 million for Tribal Courts, which are expected to increase in caseloads as a result of enforcing the Tribal Law and Order Act of 2010.

#### *Advancing Indian Education*

The BIE is one of only two agencies in the Federal Government that manages a school system, the other being the Department of Defense. Education is critical to ensuring a viable and prosperous future for tribal communities and American Indians. It is this Department's goal to improve Indian education and provide quality educational opportunities for those students who attend the 183 BIE funded elemen-

tary and secondary schools and dormitories located on 64 reservations in 23 States and serving approximately 41,000 students.

The FY 2013 provides an increase of \$5.2 million for BIE activities. A component of the BIE program increase is for Tribal Grant Support Costs, which cover administrative and indirect costs at 125 tribally controlled schools and residential facilities. Tribes operating BIE-funded schools under contract or grant authorization use these funds to pay for the administrative overhead necessary to operate a school, meet legal requirements, and carry out other support functions that would otherwise be provided by the BIE school system. The budget increases funding for these activities by \$2.0 million.

The 2013 budget includes a program increase of \$2.5 million for Tribal Colleges and Universities to assist in the economic development of tribal communities and increasing enrollment. The request also includes a program increase of \$710,000 for Scholarships and Adult Education and Special Higher Education Scholarships.

#### *Improving Trust Land Management*

The United States holds 56 million surface acres of land and 57 million acres of subsurface mineral estates in trust for Tribes and individual Indians. Trust management is vital to tribal and individual economic development. The management of Indian natural resources is a primary economic driver in many regions within the country. For example, some of the larger forested Tribes operate the only sawmills in their region and are major employers of not only their own people, but of the non-tribal members who live in or near their communities.

This Administration seeks to continue assisting Tribes in the management, development and protection of Indian trust lands and their natural resources. The FY 2013 budget request includes \$15.4 million in programmatic increases for land and water management activities. Those activities include: \$3.5 million for the Rights Protection Implementation program and \$2.0 million for the Tribal Management and Development Program to support fishing, hunting and gathering rights on and off reservations. The budget also provides program increases of \$1.0 million for the Forestry program and \$500,000 for the Invasive Species program. An increase of \$800,000 supports greater BIA and tribal participation in the Landscape Conservation Cooperative, for a total program of \$1.0 million.

In February 2010, the Klamath Basin Restoration Agreement was signed to enable the recovery of salmon and other species that have been threatened by low river flows, poor water quality, and pollution. The budget request for Trust Services includes a program increase of \$5.5 million to support the objectives of the agreement including grants for economic development. The 2013 request also includes a program increase of \$1.5 million for Litigation Support/Attorney Fees which provides funding to Tribes involved in litigation, negotiation, or administrative proceedings to protect, defend, or establish their rights or trust resources guaranteed through treaty, court order, statute, executive order, or other legal authorities. The last component is a program increase of \$550,000 for the Fort Peck Water System, a new water treatment plant facility that is expected to be fully operational in early 2012. The total funding for the new water treatment plan will be \$750,000 in 2013.

#### **New Energy Frontier Initiative**

The Office of Indian Energy and Economic Development (IEED) works closely with Tribes to assist them with the exploration and development of tribal lands with active and potential energy resources. These lands have the potential for renewable and conventional energy resource development. The FY 2013 budget request provides a total of \$8.5 million to support energy resource development on tribal lands. Of this total, \$6.0 million is provided for renewable energy projects. The remaining \$2.5 million is provided for conventional energy and audit compliance in support of leasing activities on the Fort Berthold Reservation. This request will continue the Department's New Energy Frontier initiative, which will allow Indian Affairs to assist Tribes to explore and develop 1.8 million acres of active and potential energy sources on tribal land. The IEED provides funding, guidance, and implementation of feasibility studies, market analyses, and oversight of leasehold agreements of oil, gas, coal, renewable and industrial mineral deposits located on Indian lands.

To assist with developing energy on tribal lands, Secretary Salazar and I announced the reform of Federal surface leasing regulations in November 2011. The proposed reform of surface leasing regulations for Indian lands will streamline the approval process for home ownership, expedite economic development and jump-start renewable energy development in Indian Country. The BIA conducted several consultation meetings on the rule and gathered over 2,300 comments from over 70 Tribes and Federal agencies, and is working to publish the final rule in 2012.

BIA programs assist Tribes and individual tribal landowners with optimizing resource use, providing many benefits such as revenue, jobs and the protection of cultural, spiritual and traditional resources. The estimated economic impact of these activities is \$14.4 billion which supports over 136,000 jobs.

The budget also proposes a transfer of \$1.3 million for the Indian Arts and Crafts Board from the Office of the Secretary in order to better protect Indian artifacts.

#### **Requested Decreases**

The initiatives described above, and the related increases in the Administration's request, mark a continued step toward the advancement of the Federal Government's relationship with tribal nations. These initiatives focus on those programs geared toward strengthening tribal nations and reflect the President's priorities to support economic development in Indian Country.

The President has also called upon members of his Administration to meet important objectives while also exercising fiscal responsibility. Consistent with that directive, we made several difficult choices in the FY 2013 appropriations request for Indian Affairs. The FY 2013 request includes \$66.9 million in reductions resulting from strategies for improving the effectiveness and efficiency of operating Indian programs. These reductions include \$19.7 million in streamlining measures, \$13.8 million in administrative savings and \$33.1 million in program reductions.

The \$19.7 million reduction is anticipated to come from eliminating duplicative or overlapping functions and processes to achieve necessary staffing reductions across the Bureau. Indian Affairs will explore the use of early retirement and voluntary separations to manage full time employment reductions along with other position management techniques. The \$13.8 million reduction will come from anticipated management efficiencies such as printing and travel.

The Department's requested reduction includes \$33.1 million in program decreases. Included in this reduction is \$2.6 million less for Law Enforcement Special Initiatives reflecting decreased participation in activities such as intelligence sharing. Also included in the reduction is \$6.1 million for Information Resources Technology consistent with the standardization of IT within the Department. Education related activities will see a decrease of \$4.5 million for the Indian Student Equalization Program (ISEP) to reflect a slight decline in student population.

The 2013 budget request for the Construction program is a reduction of \$17.7 million below 2012. The request includes a programmatic decrease of \$17.8 million for new school construction funding. Indian Affairs will focus on improving existing school facilities as part of the Department's strategic approach to not fund new construction in FY 2013. The total 2013 request for Education Construction is \$52.9 million. The budget provides \$11.3 million for Public Safety and Justice, \$32.7 million for Resource Management, and \$9.0 million for Other Program Construction.

The budget provides \$5.0 million for the Indian Guaranteed Loan program, a reduction of \$2.1 million from the 2012 enacted level, while the program undergoes an independent evaluation. This level of funding will continue to allow the same dollar amount of loans, approximately \$71.7 million, to be loaned out due to a lower subsidy rate from the prior year.

#### **Conclusion**

We are aware of the current fiscal challenges our Nation faces. This Administration understands the need to take fiscal responsibility, and also understands the need to strengthen tribal nations, foster responsible development of tribal energy resources, and improve the Nation-to-Nation relationship between tribal nations and the United States. It is our sincere belief that we have struck a balance in this FY 2013 budget request for Indian Affairs that achieves the President's objectives of fiscal discipline while at the same time meeting our obligations to tribal nations with which our Federal Government has a Constitutionally-based government-to-government relationship.

Mr. Chairman and members of the Committee, thank you for the opportunity to appear before you today. I am happy to answer any questions you may have.

The CHAIRMAN. Thank you very much, Mr. Secretary.

I will call on Dr. Roubideaux after I recognize Senator Franken. He has to be back on the Floor, and I am going to ask him for any opening remarks that he may have.

**STATEMENT OF HON. AL FRANKEN,  
U.S. SENATOR FROM MINNESOTA**

Senator FRANKEN. Thank you, Mr. Chairman. I thank you for your courtesy.

Unfortunately, I have to preside in 15 minutes. So I would just like to say a couple of things. Each year, this Committee holds hearings on many issues of great importance for Indian Country. But only once a year do we examine overall funding levels for Native programs. What we choose to fund sends a powerful message to Tribes about our priorities.

In these times of tight budgets, programs across the Federal Government are being forced to make painful cuts and do more with less. Sadly, Native communities are far too accustomed to doing more with less. I hope that as we examine this year's budget, we will all remember our trust responsibility to Tribes and think carefully about any cuts to Tribal programs.

The President's fiscal year 2013 budget has some good things. I am very happy to see the proposed increases for Indian Health Services, contract support costs and public safety and law enforcement. I know these are all top priorities that were requested by the Tribes.

But the President's budget also makes some severe cuts. I am concerned about the over \$2 million decrease in the Indian Guaranteed Loan Program. And I am deeply troubled by the zeroing out of replacement school construction. School construction funding is an issue that I have brought up in this Committee over and over again. There is a \$1.3 billion backlog for Indian school construction and repair. But this year, the President has requested only \$53 million, and none of that money would go to new construction.

The state of BIE schools is simply unacceptable. The Bugonaygeshig School on the Leech Lake Reservation in my home State of Minnesota is in desperate need of replacement. Students and teachers have to deal with leaky roofs, mold, rodent infestations and sewer problems. The facility doesn't meet safety, fire and security standards.

And I want to thank the Deputy Secretary Echo Hawk, and I want to thank you for coming into my office to discuss this the other day.

I want to ask my colleagues on this Committee this question. Would you countenance your children getting their education in a school that wasn't safe? In a school that had rodents running around, that had mold, that had leaks? When it rains, it is cold in the winter and sweltering on hot, humid days. And I know the answer would be no. How can we expect Native children to succeed under these conditions?

As Senator from Minnesota, I have a responsibility to every child in my State, every child and every parent, making sure every child gets a good education. We know what the purpose of that is, we know why we need to do that. It benefits every child, benefits and makes them more productive. It benefits our economy. We know the reasons to do this.

But there is another reason, too. And one of the reasons is, these are children. They are beautiful children. They are gifts. And they

deserve to be educated in a place that is safe and that is comfortable and doesn't have rats and rodents.

So I will fight to restore funding for replacement school construction. I hope I can count on support from other members of this Committee.

I want to thank the witnesses for coming today. I want to apologize, because I have to go, it is my turn to preside. I have read your testimony and I look forward to watching it later. I want to thank you, Mr. Chairman, for giving me this opportunity and for your indulgence and for the Ranking Member's indulgence as well. Thank you.

The CHAIRMAN. Thank you very much, Senator Franken, for your statement.

Now before we go to Dr. Roubideaux, let me call on our Vice Chairman to give his opening remarks.

**STATEMENT OF HON. JOHN BARRASSO,  
U.S. SENATOR FROM WYOMING**

Senator BARRASSO. Thank you very much, Mr. Chairman. I appreciate the patience of the members of our panel, as we went through a series of roll call votes.

I want to thank you for holding this important hearing, and once again, Congress is examining a budget request for all Federal programs, including Indian programs. So from within the shadow of an enormous and growing spending deficit, we look at the issues facing our Country as we see on both sides of the aisle an agreement that there is no avoiding the problem any more. Most if not all agencies and programs are going to be called on to participate in the solution.

We all recognize that the Federal Government has important responsibilities in Indian Country: public safety, education, health care, just to name a few, as Senator Franken had previously mentioned. And we all know that carrying out these responsibilities requires money.

This year and into the foreseeable future, agency decisions on priorities and efficient use of taxpayer funds are going to receive ever-increasing scrutiny, as you and I have discussed, Mr. Chairman.

So Mr. Chairman, I look forward to the additional testimony on how this budget advances Federal responsibilities in a meaningful and effective manner for Indian Country. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator.

I now call on Dr. Roubideaux. Will you please proceed with your testimony? But before you do, let me say that your full statement will be made a part of the record. Dr. Roubideaux.

**STATEMENT OF HON. YVETTE ROUBIDEAUX, M.D., M.P.H.,  
DIRECTOR, INDIAN HEALTH SERVICE, U.S. DEPARTMENT OF  
HEALTH AND HUMAN SERVICES; ACCOMPANIED BY RANDY  
GRINNELL, DEPUTY DIRECTOR, INDIAN HEALTH SERVICE**

Dr. ROUBIDEAUX. Thank you, Mr. Chairman, Mr. Vice Chairman, members of the Committee. I am Dr. Yvette Roubideaux, the Direc-

tor of the Indian Health Service. I am accompanied by Mr. Randy Grinnell, the Deputy Director of the Indian Health Service.

I am very pleased to have the opportunity to testify on the President's fiscal year 2013 budget request for the Indian Health Service.

My written statement reviews in detail what IHS has accomplished with the funding that Congress has appropriated for us over the past few years. Since 2008, the IHS budget has increased by 29 percent. This funding has helped the Indian Health Service make significant progress in our efforts to change and improve the organization, as well as in addressing the priorities of our work.

Our partnership with Tribes is fundamental to improving the health of our communities. Each year we incorporate Tribal budget priorities into our budget requests.

We are also making progress on reforming the Indian Health Service with an emphasis on improving the way we do business and how we lead and manage our staff. Setting a strong tone at the top that we must change and improve, improving our financial controls, finding more efficient and effective ways to conduct our business matters and performance Management and accountability have been very important to our progress.

For example, IHS was able to demonstrate its best performance ever as a part of the HHS CFO audit in 2011. Our hiring times have improved and we are addressing pay disparities to help with recruitment and retention.

The Contract Health Services program, or how we pay for referred care, has demonstrated accomplishments in IHS reform through improved business practices and improving access to care. The Contract Health Service budget, or referred care, has increased 46 percent since 2008, and as a result, some CHS programs are able to pay for more than priority one or life or limb referrals and services. And while the overall need is still significant, the funding increases are making a difference.

We have also made significant progress in improving quality of and access to care with improvements in customer service, our Improving Patient Care program, our use of health information technology, the success of the special diabetes program for Indians, and the early accomplishments of the methamphetamine and suicide prevention and our domestic violence prevention initiatives.

In fiscal year 2011, for the first time ever we met all of our clinical GPRA measurement goals. The IHS Health Care Facilities Construction program has contributed to IHS increasing access to care and improving its partnership with Tribes, and is helping us complete and continue health facility construction projects.

When I was first appointed to be the Director of the Indian Health Service, I heard input from Tribes, patients and our staff that we needed to change and improve the Indian Health Service in many ways. And although we have made significant progress in addressing our priorities, much work remains to be done. The population we serve continues to grow, and the challenges of providing health care in rural America are ever-present.

Our data continue to show the incredible need for services by the patients we serve, and we continue to work hard to meet our mission with available resources. The increases in IHS funding over

the past few years have helped us make progress. But we still have much more to do.

So the 2013 President's budget request for IHS will help us address these challenges and make progress in our agency priorities through targeted investments to increase access to care, improve quality of care, support our oversight and accountability functions and address Tribal management support costs. The budget request is \$4.42 billion, an increase of \$116 million over 2012. That includes funds to support activities that are identified by Tribes as budget priorities.

So the budget request includes \$34 million to increase inflation costs and \$20 million for program increases for the Contract Health Service program, or how we pay for referred care. That will be spent on expanding the purchase of health care from private sector providers outside the Indian Health system.

An increase of \$49 million is included to staff and operate newly-constructed health facilities, including our joint venture facilities constructed by Tribes. A \$5 million increase is included for contract support costs as a priority for Tribes that have assumed management of our health care programs previously managed by the Federal Government. A \$1 million increase in direct operations will help the agency continue its reforms and provide accountability and oversight in key administrative areas. We also include \$6 million for health information technology to support the mandatory ICD-10 implementation and \$1 million in support for electronic dental record programs.

Then for facilities we have an \$81.5 million budget to continue construction on two facilities in progress, and an increase of \$1.7 million will help us address routine maintenance and improvement needs.

In closing, we have shown our ability to make progress in improving and changing the Indian Health Service. However, we know there is still much more work to be done. We will continue to work in partnership with Tribes to make these improvements and improve the quality of and access to care for the patients that we serve. The President's budget request helps us make progress in changing and improving the Indian Health Service.

Thank you for the opportunity to present on the 2013 budget.  
[The prepared statement of Dr. Roubideaux follows:]

PREPARED STATEMENT OF HON. YVETTE ROUBIDEAUX, M.D., M.P.H., DIRECTOR,  
INDIAN HEALTH SERVICE, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Mr. Chairman and Members of the Subcommittee:

Good morning. I am Dr. Yvette Roubideaux, Director of the Indian Health Service. I am accompanied today by Mr. Randy Grinnell, Deputy Director. I am pleased to have the opportunity to testify on the President's FY 2013 budget request for the Indian Health Service (IHS).

#### **Indian Health System—Accomplishments and Progress**

First I would like to review what the IHS has accomplished with the funding the Congress appropriated over the past few years. Since FY 2008, the IHS budget has increased 29 percent and this funding has helped IHS make significant progress in our efforts to change and improve the organization, as well as in addressing the four priorities that guide our work. These priorities are: (1) to renew and strengthen our partnership with Tribes; (2) to reform the IHS; (3) to improve the quality of and access to care; and 4) to make all our work transparent, accountable, fair, and inclusive.

Our partnership with Tribes is fundamental to improving the health of our communities, and in partnership, we have consulted with Tribes in various formats and have made improvements based on their priority recommendations. We have improved consultation at the national level, consulted on a variety of Tribal priorities, held over 350 Tribal delegation meetings and held Tribal listening sessions by phone, videoconference or in person with all 12 IHS Areas each year. We regularly meet with Tribal advisory groups and workgroups, attend Tribal meetings and conferences and have established a website where we post letters sent to Tribes. We have also been working on Area and local improvements in consultation and partnership, and Tribes are mentioning that they see improvements. Tribal consultation is fundamental to our budget formulation process and each year we incorporate Tribal priorities into our budget requests.

We are also making progress on reforming the IHS with an emphasis on improving the way we do business and how we lead and manage our staff. Setting a strong tone at the top that we must change and improve has been important to our progress. We have improved fiscal controls and have found more efficient and effective ways to conduct our business matters and provide quality health care. We have worked with our Area Directors to make our business practices more consistent and effective, and have implemented better management controls throughout the system. Performance management and accountability, starting with our Senior leadership, has brought about needed changes at all levels of the agency.

Another very important area where we have made significant improvements is in how we manage and monitor our budgets. By requiring IHS Area Offices and service units to implement more financial controls, return third-party collections to the IHS facility of origin, regularly monitor performance targets, and make improvements in the use of the Unified Financial Management System, our accounting system, IHS was able to demonstrate its best performance ever as a part of the HHS CFO audit. And even though we have improved, we continue to focus on using resources efficiently and effectively; for example, since 2010, we have reduced agency-wide travel by 24 percent.

We have continued our work to address the issues that were raised in the Senate Committee on Indian Affairs Investigation of the Aberdeen Area and the corrective actions that were implemented are resulting in improvements. Pre-employment suitability assessments and background checks are being conducted, providers are required to be credentialed and privileged to provide care, the use of administrative leave has decreased, pharmacy security has improved and financial management has improved. In addition to improvements in the Aberdeen Area, we are conducting reviews of all twelve IHS Areas to ensure these problems are not occurring elsewhere. So far, we have completed reviews in seven Areas: Albuquerque, Billings, Navajo, Oklahoma City, Phoenix, Aberdeen, and Tucson Areas. Overall, we are finding that we have appropriate policies in place, and we are making improvements to ensure consistent implementation of those policies across the system.

To improve how we lead and manage staff, we have made the hiring process more efficient and less time-consuming. And we have made progress by reducing our average hiring time from 140 days to 81 days! We are focused on implementing standard Position Descriptions, with the goal of more timely and effective advertisement that results in the right candidates. We have also been working on improving pay disparities in selected healthcare provider positions. These steps should help greatly with our recruitment and retention efforts.

The Contract Health Services program has demonstrated accomplishments in IHS reform through improved business practices and improving access to care. The CHS budget has increased 46 percent since 2008; as a result some CHS programs are able to pay for more than priority-one referrals and services. While the overall need is still significant, the increases are making a difference. With this 46 percent increase in funding, an additional 7,400 inpatient admissions, 278,000 outpatient visits and 10,000 one-way transportations have been purchased.

Regarding business practices, IHS has negotiated lower rates with the Fiscal Intermediary (FI) that pays the claims for health services provided in the private sector programs. By reducing the rates from \$30.31 to \$28.00 per claim, the IHS estimates it will save almost \$1 million based on the estimated 468,000 claims processed in FY 2011. The IHS Director's Workgroup for Improving CHS has recommended specific activities to improve the business of the CHS Program, to better estimate the need, and to provide better education about the program to staff, Tribes, patients and our outside providers. We are also notifying outside providers that the recent reauthorization of the Indian Health Care Improvement Act contains a provision that prevents providers from holding patients responsible for medical bills when the referral was approved by IHS for payment. We are working with outside providers to ensure better coordination of referrals and their payment.

We have also made significant progress in improving quality and access to health care. We have focused on improvements in customer service with many new activities throughout our Areas. The IHS Improving Patient Care (IPC) initiative is an important part of that progress. The IPC initiative is our patient-centered medical home initiative that is focused on improving how we deliver care that is centered on what our patients want and need. It also is about working better as a team in the care of the patient. We have expanded the IPC initiative to 90 sites in the Indian health system and plan to expand this initiative throughout our system.

The Special Diabetes Program for Indians (SDPI) continues its successful activities to prevent and treat diabetes. The grantees have shown that in partnership with our communities, we can reduce diabetes and cardiovascular disease risk factors in Indian country with innovative and culturally appropriate activities. For example, the Diabetes Prevention Program, designed as a demonstration project to translate research findings into real world settings, achieved the same level of weight loss as the original Diabetes Prevention Program Research study funded by the National Institutes of Health. The SDPI is authorized through 2013.

Our Methamphetamine and Suicide Prevention Initiative is also reporting some impressive accomplishments for 2011. During the first year of this congressionally-funded initiative:

- 4,370 individuals were identified with a methamphetamine addiction;
- 1,240 people entered a methamphetamine treatment program;
- Over 4,000 people participated in suicide prevention activities;
- 42,895 youth participated in prevention or intervention programs; and
- 647 people were trained in suicide crisis response.

And in 2011 our Domestic Violence Prevention Initiative:

- Developed 21 interdisciplinary Sexual Assault Response Teams;
- Served over 2,100 victims of domestic violence and/or sexual assault;
- Screened over 9,100 patients for domestic violence;
- Made over 3,300 referrals for mostly domestic violence services;
- Reached nearly 9,500 community members through community and educational events; and
- Provided 37 trainings events for approximately 442 participants on domestic violence, mandated reporting for abuse, child maltreatment, dating violence, and bullying.

Quality of care is being improved through the use of health information technology in our system. With the help of Recovery Act funds, IHS was the first large federal healthcare system to have a certified electronic health record (EHR). And we are working hard to implement the meaningful use of electronic health records in the Indian health system. This is an important first step in the process for IHS, Tribal, and urban Indian health sites that use our Resource and Patient Management System (RPMS) to qualify for and receive the new EHR Incentive Payments from Medicare and Medicaid. This could help bring valuable new resources to the Indian health care system. It is also important for Tribes that do not use RPMS, because they can still qualify for incentive payments by using a certified electronic health record.

Performance improvement through GPRA measures indicates that the Indian health system is making progress in addressing health disparities. In FY 2011, for the first time ever, we met all of our clinical GPRA measurement goals. Several GPRA measures have demonstrated significant increases from 2008 to 2011, as follows:

- 12,606 additional diabetic patients received nephropathy assessments for a relative 26 percent increase.
- Dental sealants placed have increased by 35,686 for a relative 15 percent increase.
- 24,860 additional patients were screened for colorectal cancer for a 57 percent relative increase.
- 23,585 additional smokers received tobacco cessation intervention for a relative increase of 54 percent.
- 32,161 additional patients were screened for depression for a relative increase of 66 percent.

The GPRA measure for cardiovascular disease (CVD) is a comprehensive assessment for five CVD-related risk factors (blood pressure, LDL, tobacco use, BMI, and lifestyle counseling).

- 4,767 additional patients were screened for a 48 percent relative increase.
- Additional 5,269 women received mammography screening for a relative 23 percent increase.

The IHS Health Care Facilities Construction (HCFC) Program has contributed to IHS increasing access to care and improving its partnership with Tribes. HCFC funding has increased by more than \$45 million since FY 2008 and is helping us complete the hospital in Barrow, Alaska, and continue construction in Kayenta and San Carlos, AZ, and begin the design of the Southern California Youth Regional Treatment Center. Recovery Act funds have helped complete the health care facilities in Eagle Butte, South Dakota last year and Nome, Alaska this year.

Collaborations with other agencies also are important in our efforts to improve the quality of and access to care. We are implementing our Memorandum of Understanding with the Department of Veterans Affairs (VA) and working with Tribes at the Area and local levels to help improve coordination of care for Native veterans who are eligible for the VA and the IHS.

In addition, our collaboration with the Health Resources and Services Administration has resulted in designations of all IHS, Tribal, and urban Indian health sites as eligible for the National Health Service Corps loan repayment and scholarship programs. This will have a positive impact on our workforce development goals as more physicians, dentists and behavioral health providers will now be eligible to work in our underserved communities. So far, 490 IHS, Tribal, and urban Indian health program sites are approved for provider placement and 221 additional providers have signed on to work in Indian health sites through this program.

The principles of transparency, accountability, fairness and inclusiveness guide our work and decisionmaking. The decisions that we make need to benefit all the patients we serve, whether they are served by our direct service, Tribally-managed or urban Indian health programs. We understand that in order to get the support we need, we have to demonstrate that our activities result in improved outcomes—for local programs and for the system as a whole. We are working to communicate more about our activities and reform efforts and their outcomes.

#### **Indian Health System—Challenges Remain**

When I was first appointed the IHS Director, I heard input from Tribes, patients and staff that we needed to change and improve the IHS in many ways. Although we have made significant progress in addressing the agency priorities, much work remains to be done. The population we serve continues to grow, and the challenges of providing health care in rural settings are ever present. The rise in chronic diseases such as diabetes, cancer and heart disease require more coordinated approaches to care over the lifetime of a patient. Along with the rest of the country, we face challenges in recruiting and retaining primary care providers. As reforms in the nation's health care system are implemented, our system needs to adapt to many changes, including delivery system and payment reforms. Our data continue to show the incredible need for services by the patients we serve, and we continue to struggle to meet our mission with available resources. Tribal consultation continues to identify areas for improvement and areas of need. The increases in IHS funding over the past few years have helped us make progress, but we still have much to do.

For example, the estimated need for the CHS program, defined as denied and deferred services, remains high. Reduced increases for inflation and population growth in recent appropriations results in less buying power. While vacancy rates have improved for dentists, pharmacists, and optometrists, physician and nurse vacancies continue to be high at 21 percent and 15 percent, respectively. After this year, implementation of the Electronic Dental Record is still needed in 118 sites. The Backlog of Essential Maintenance Alterations and Repair for Indian health facilities is currently \$427 million. The total Sanitation Deficiency System need is approximately \$3 billion. And the amount of funding needed to complete all facilities on our current priority construction list is \$2.2 billion. We are grateful for the funding we have received in the past few years because it has helped us make progress in the face of these significant needs and challenges.

#### **FY 2013 Budget Request—Where We Want To Go**

The FY 2013 President's Budget request for IHS will help the agency address these challenges and make progress on our agency priorities through targeted investments to increase access to care, improve the quality of care, support our oversight and accountability functions, and address Tribal management support costs. The budget request is \$4.422 billion, an increase of \$115.9 million over the FY 2012 enacted level. The request includes funds to support activities identified by the Tribes as budget priorities, including the following:

*Current Services*

The request includes \$2.4 million in increases for pay costs for federal Commissioned Corps personnel and \$34 million for inflation costs to cover the rising costs of contract health care, which is spent on purchasing health care from private sector providers outside the Indian health system. These increases impact access to care through supporting retention of health care providers and enabling IHS and Tribal programs to maintain the level of services purchased through the CHS program. An increase of \$49 million is included to staff and operate newly constructed health facilities, including facilities completely constructed by Tribes under the Joint Venture Construction Program. The success of the Joint Venture program reflects the effectiveness of our partnership with Tribes in reducing the \$2.2 billion backlog of health facility construction projects and staffing needs.

*Funding Increases to Continue Improving Quality of and Access to Care*

The IHS proposed budget includes a \$30.3 million increase for programs that will increase access to care and strengthen the capacity of the Indian health system to provide clinical and preventive care. The budget request includes a program increase of \$20 million for the CHS program, the top Tribal priority for program increases. This increase will expand the number of referrals for medical services in the private sector that IHS and Tribal CHS programs are able to fund. A \$5 million increase is included for Contract Support Costs for Tribes that have assumed the management of health programs previously managed by the Federal Government. A \$1 million increase in Direct Operations will help the agency continue its reforms and to provide accountability and oversight in key administrative areas.

In this budget request we also target an important funding increase to the Agency's HIT systems, which are an increasingly critical and necessary component for the delivery of patient care services at the numerous IHS and Tribal hospitals and ambulatory clinics, and Urban Indian Health Programs. The HIT systems capture patient and performance data for statistical reporting and decisionmaking, and comprise the billing and collection system for third party reimbursements. The \$6 million HIT increase will support mandatory ICD-10 (International Classification of Diseases) implementation and provide \$1 million in support for the Electronic Dental Record (EDR) program.

For the Facilities appropriation, the overall request is \$443.5 million. Within this increase, the total Health Care Facilities Construction budget is \$81.5 million to continue construction of the San Carlos Health Center in Arizona, and the Kayenta Health Center on the Navajo Reservation. An increase of \$1.7 million will help address routine maintenance and improvement needs of our aging facilities.

**Closing**

The IHS is a predominantly rural, highly decentralized federal, Tribal, and Urban Indian health system that provides health care services under a variety of challenges. However, IHS has proven its ability to improve the health status of American Indians and Alaska Natives and to improve the way it does business with the resources we receive. IHS has shown notable progress, accomplishments, and outcomes over the past few years. We will continue to move forward in partnerships with Tribes to make needed improvements and to improve the quality of and access to care for the American Indian and Alaska Native people we serve. The President's budget request will help us make progress in changing and improving the IHS.

Thank you for this opportunity to present the President's FY 2013 budget request for the Indian Health Service.

The CHAIRMAN. Thank you very much, Dr. Roubideaux, for your statement.

Secretary Echo Hawk, the budget contemplates a savings, and you mentioned \$19 million, by streamlining operations across all components of the organization. My question to you is, are all aspects of the organization being considered for this reduction, such as office closures, cuts to programs, reductions in force? How do you intend to consult with Tribes during this process?

Mr. ECHO HAWK. Mr. Chairman, the first point that I would like to make has to do with consultation. And of course, the President of the United States gave us the directive across the Federal Government to improve how we consult with Tribes. This past December, the Department of Interior adopted its new consultation policy.

In all of the areas that we do consultation, perhaps there is no more important part than consulting on the budget. Thus, on a quarterly basis, we assemble Tribal leaders from all regions of the Country to make sure that they have input on how we are crafting the budget.

I have to say that their position has been very clear to us, that they do not support any cuts in spending through Interior Indian Affairs. Nevertheless, they are very helpful to us in identifying what the priority areas are. One of the messages that I have heard very clearly in this consultation policy over the last three years is that when budgets are tight and we have to be fiscally responsible, that Tribal leaders say, don't forget, the Federal Government has to take its turn, too. Don't just turn to Tribal programs and start chopping.

So in this 2013 request, we have proposed streamlining, which means that what are going to do is look very carefully at what we can do more efficiently to consolidate programs, to do everything we can to tighten the Federal Government's belt. We are not going to do that just on our own. Our plan is to move forward in a consultation process. We are not talking about reorganization here without the approval of the Congress. But we are talking about identifying ways that we can save dollars in the Federal bureaucracy, so that we can fund the priorities of Tribes.

So we will be out there consulting, beginning in April, and listening to what Tribes have to say about the areas where we can do that belt-tightening within the Bureau of Indian Affairs, within the Bureau of Indian Education and in the Office of the Assistant Secretary. Thank you.

The CHAIRMAN. Thank you very much. It is good to hear that you will do it by consultation. In my rather brief experience with this area, I find that somehow, the Indian Tribes out there don't get the full message of many other things. And to hear you consulting directly is really great to hear.

Dr. Roubideaux, in your testimony you state that Tribal consultation is fundamental to your budget formulation process, too. Please discuss how Tribal consultations led to Tribal priorities being reflected in the proposed budget.

Dr. ROUBIDEAUX. Tribal consultation is fundamental. I really feel the only way we are going to improve the health of our communities is to work in partnership with them.

We have a Tribal budget formulation process that starts first at the local level, and the area level. So we have the 12 IHS areas in the fall, they hold meetings with Tribes. And they determine what the area level budget priorities are for Tribes.

Then we have a national budget consultation that occurs usually in January and February where representatives from all the IHS areas come together and fight among each other to try to get their priorities into the list. There are so many priorities for funding, it is a very difficult conversation for our Tribes. But I am very grateful that they do that important work. Because it results in a great set of recommendations for us to use as we begin our budget formulation process.

So each year they present their budget priorities to me, and that is the first step in developing our proposals for the Indian Health

Service budget. It is an annual process, so tomorrow the Tribes will be presenting their recommendations on the 2014 budget. I am really looking forward to hearing their results as well.

The CHAIRMAN. Thank you very much.

Let me now ask the Vice Chairman for his questions.

Senator BARRASSO. Thank you very much, Mr. Chairman.

I want to talk about a couple of specific things. First, for Mr. Echo Hawk, the President's budget requests \$12 million for Indian irrigation projects. None of these is in the proposed area for the Wind River irrigation project in Wyoming. According to a 2006 GAO report, there was a total of \$84 million in deferred maintenance for this project. At our Wyoming field hearing on irrigation last April, the Department of Interior testified that they would begin working on a long-term plan to repair the deferred maintenance on Indian irrigation projects.

So I am wondering, what has the Department done since April to reduce the deferred maintenance in the Wind River irrigation project?

Mr. ECHO HAWK. Senator Barrasso, I am not prepared to address that today. But I would be happy to look into that, and working with my staff, get you an immediate answer to your question.

Senator BARRASSO. Thank you. I want to move on to law enforcement. The high priority performance goal pilot project was implemented on the Wind River Reservation in Wyoming to decrease violent crime rates. The goal is 5 percent over two years. Yet after two years, the violent crime rates on the Wind River Reservation has actually increased by 7 percent.

I understand there was an overall, overall downward trend. So some success in the rates over the last two years on a national basis. But yet what we saw was unfortunately an increase. So I am wondering what efforts are going to be made to work to decrease the crime rates on the Wind River Reservation

Mr. ECHO HAWK. Senator Barrasso, that is an excellent question. I am happy to bring good news with me today, because we did achieve the overall 35 percent reduction across the four reservations. Wind River was the largest reservation that we dealt with. And it was the area where we had to bring in the most law enforcement officers. I want to just emphasize that this is not a surge. These officers that were funded will be there permanently. So it is not something where we fund it temporarily, see how it works and then back off.

It is correct that by the end of the 24-month period, we actually had a 7 percent increase in crime there. But because it was large, because we had so many law enforcement officers come in there, what happens when you bring in that large number of officers, you actually will generate more reports that come in. Then eventually, because people feel safer, they report, and then we start to see a downward trend.

So after the 24 months ended, given another three months, we actually decreased crime at Wind River by 11 percent. So we knew that was probably going to be the case. But we are obviously moving in the right direction there, so that is good news for the community.

Senator BARRASSO. Well, good. I look forward to additional reports.

Dr. Roubideaux, the President's budget request includes a \$54 million increase for the Contract Health Services program. You testified at our budget hearing last year here that the Federal Tribal Work Group was to review the funding formula for Contract Health Services and then make recommendations to you. And I asked you last year whether the formula would include a consideration of mortality and morbidity rates, because both of our experience as physicians, we know how important that is.

Could you tell me whether those rates are now factored into the formula and what decisions you have made?

Dr. ROUBIDEAUX. Thank you for the question. Contract Health Services is such an important budget priority, it really is the top priority. Tribal leaders have been helping us over the past two years to make recommendations on how to improve the way we do business and to look at how we provide funding.

The work group decided that they needed to have another year to look at the impact of our recent budget increases, to see how the formula really played out. So we expect them to have their discussions about the formula and whether it needs to be changed in the next year.

Senator BARRASSO. I would appreciate your attention, your personal attention to that, given your background, and if you could involve me in some of the findings, I would be very grateful. Thank you.

Senator Franken mentioned some things about public safety, people needing a place to feel safe, in their homes or in their work place. I want to talk about, if I could, with you, Dr. Roubideaux, public safety in health care, because they do go hand in hand. Patients and employees need to feel safe in the work place, especially a place where pharmaceutical drugs need to be secured.

At the budget hearing in 2008, before you were responsible, Dr. Coburn asked your predecessor, I think Mr. McSwain, what the Indian Health Service was doing to protect the patients and employees. It was a specific hospital that he was familiar with, Claremore Indian Hospital in Oklahoma. He indicated that the agency was working to resolve some jurisdictional issues, so local law enforcement could protect patients and staff at that facility.

It is four years later, and again, it is not something that you were charged with, you have inherited this problem. But it is four years later and there has still not really been an adequate resolution to the problem. Could you maybe help address what needs to be done to resolve this matter?

Dr. ROUBIDEAUX. Yes. We are aware that the issue at Claremore Indian Hospital is serious and needs to be resolved as soon as possible. I just recently was briefed by staff.

It looks like we have been working very closely with the Department of Justice and the Bureau of Indian Affairs. They have outlined some administrative and possible legislative options.

So the next step would be to decide what our priorities are for those options and then to consult with the Tribes. Because some of those options actually do involve whether the Tribes will be helping

us with this problem. We would be happy to discuss the details of those options with you and work with you on this issue.

Now that I have seen we have made progress in identifying some specific options, then I will do what I can to push for resolution.

Senator BARRASSO. Thank you very much.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator Barrasso.

My question is for the panel. The Budget Control Act requires an enforcement mechanism called, and I did mention it in my opening remarks, sequestration. And it is due to take effect in January of 2013.

My question to the panel is, what effect would the sequestration have on the Department's budget and your ability to provide core services to Tribes?

Dr. ROUBIDEAUX. Well, we are very concerned about the sequestration. For the Indian Health Service, a portion of our budget actually is protected in that the automatic decrease would be less. But it still would be 2 percent. And 2 percent for our budget equates to around \$88 million. That would have to be applied to both of our accounts, in services and facilities.

So we already know that our system has had to absorb a lot of costs, including high medical costs and inflation and so on. And having another \$88 million to try to absorb in our budget would be very painful. It would be very difficult for our health care facilities and would certainly impact services.

So we are following the progress of this in Congress. I have been talking with Tribes about, if this occurs, what are your preferences on where we might absorb these costs. Of course, the Tribes are very reluctant to have that conversation, because they don't want this to happen. They have told me that this will have a very significant impact on the services in their communities.

So we are following this very closely. It will have a great impact, even though Indian Health Services does get treated a little bit better, it is still a significant impact.

The CHAIRMAN. Thank you very much. Mr. Echo Hawk?

Mr. ECHO HAWK. Chairman Akaka, we realize that we are living in this era of constrained budget. As we have consulted with Tribes, we have received some targets by OMB to craft budgets. This helps us figure out what our true priorities are. For instance, we had to go through exercises where we looked at 10 percent reduction, then percent reduction. Even at the level we are now in this proposal, where is it two-tenths of 1 percent reduction, it is very painful. We try to meet the Tribes' priorities, but like I said a few minutes ago, we are streamlining and we are going after management efficiencies. This is painful for the Federal Government, because we have a trust responsibility to fulfill.

So we have some feeling about how painful it would be to have to undergo additional cuts in the budget. I am just hoping that things can be worked through the Congress, so that the sequestration does not automatically trigger. Because we are down to trying to solve problems that are very significant in Indian Country with a constrained budget already.

The CHAIRMAN. Thank you very much. I have further questions that I will submit for the record.

Senator Barrasso, are there any further questions?

Senator BARRASSO. Nothing, thank you, Mr. Chairman.

The CHAIRMAN. Well, I want to thank you so much to this panel for your responses. We too want to do the best that we can, and streamlining, of course, is a difficult process. But we can certainly save and we are looking forward to things working out. This sequestration, I ask it primarily because it is something that we hope we can work out at that time.

So I would like to thank our first panel very much for your patience and for being here today, and I look forward to working with you. Thank you.

I would like to invite the second panel to the witness table. Due to the delay of this hearing, I just want you all to know that Secretary Thomas is unable to testify on behalf of the National Congress of American Indians. However, we will include his full written statement in the hearing record.

Serving on our second panel is the Honorable Fawn Sharp, President of the Affiliated Tribes of Northwest Indians; the Honorable Michell Hicks, Principal Chief of the Eastern Band of Cherokee Indians, on behalf of the United South and Eastern Tribes; and the Honorable Robert Shepherd, Chairman of the Sisseton Wahpeton Oyate Tribe, on behalf of the Great Plains Tribal Chairman's Association.

Welcome to you and thank you again for your patience. President Sharp, will you please proceed with your testimony?

**STATEMENT OF HON. FAWN R. SHARP, PRESIDENT,  
AFFILIATED TRIBES OF NORTHWEST INDIANS**

Ms. SHARP. Thank you, Chairman.

On behalf of the Affiliated Tribes of Northwest Indians, we are truly honored to be here, and thank you for the opportunity. We believe this is another reflection of a new era of partnership with the United States. Not only do we have a relationship with the President, but now with the legislature, the Congress. And we thank you for that opportunity and your leadership.

I would like to begin our remarks by speaking to natural resources issues. The Northwest is rich with abundant wildlife, fish, hunting, gathering. And we would like to speak to a couple of issues that relate to, first of all, the BIA Rights Protection Fund. We appreciate the proposed increase from \$28 million to \$32 million, but we do recognize that when you look at the entire issue across the Nation, we are falling incredibly short of the other appropriations to our sister organizations, inter-Tribal organizations, throughout the United States.

For example, the Great Lakes Indian Fish and Wildlife Commission is looking at an increase of 17 percent relative to our 5 percent for the Northwest Indian Fish Commission, and the Columbia River Inter-Tribal Treaty Commission. You look at Chippewa-Ottawa Authority, and that is a 67 percent increase.

So in the Northwest, our two inter-Tribal organizations are at a 5 percent level, but these others are at a substantially higher level. So that is one issue that we noticed in the appropriations. A treaty is a treaty regardless of the geographical scope. And our needs and

our planning desperately need to have funding levels at a place where we can adequately protect our most precious resources.

The second issue that relates to natural resources is the Pacific Coastal Salomon Recovery Fund. At one point, at its height in 2002, our funding level was at \$110 million. In 2011, it was \$79 million. A further decrease in 2012 to \$65 million. This proposal for 2013 is \$50 million, a \$15 million reduction.

This fund is essential for us as we work to prepare and preserve and protect our watersheds, and again, our most precious resources. And those natural resources that are subject to the Endangered Species Act and as well as protecting our most critical trust obligations, not only for our generation but for future generations, those funding levels must be at a place where our trust interests are protected.

The next issue that we would like to speak to has to do with law enforcement and public safety. In the Northwest, we have Tribes that border international waters. We have Tribes in Montana, Washington that border Canada. And we have noticed too in this budget that there is a proposed reduction of \$2.6 million in the Special Initiatives project. The Special Initiatives is designed, a component of that to contend with international drug trafficking and border security issues.

And as the President of the Quinault Nation, I can attest to the gravity of law enforcement issues in Indian Country where we know that drug trafficking organizations have targeted our lands. The Justice reports that have been released have noted that at the Quinault Nation, we have 30 miles of international border with 2,000 miles of logging roads. From the ocean to Highway 101, we have 22 points of entry. We have recovered and invested our own dollars into a drug task force; \$400,000 of our own appropriations this year. That resulted in the first quarter in 48 arrests with 100 percent conviction rate. We have recovered cocaine, heroin, meth, prescription pills and most recently in this last month, our drug task force impounded a vehicle that came off our logging roads, and it had an explosive device underneath it.

This last fall, a young mother with two children were hunting in an area next to our lake. And they came across a dead body. She was not so long after discovering that body surrounded by vehicles on all four corners. So we desperately need help in law enforcement. The bad guys have recognized we are very vulnerable. It is not a time to reduce that critical fund.

So on behalf of the Affiliated Tribes of the Northwest Indians, we fully support NCAI's request and their proposal and we thank you for this opportunity.

[The prepared statement of Ms. Sharp follows:]

PREPARED STATEMENT OF HON. FAWN R. SHARP, PRESIDENT, AFFILIATED TRIBES OF NORTHWEST INDIANS

### **Introduction**

I am honored to provide testimony on the President's 2013 Proposed Budget for Native Programs. My name is Fawn Sharp and I am here in my elected role as President of the Affiliated Tribes of Northwest Indians (ATNI). I also serve as President of the Quinault Indian Nation. I am here to support some key items within the President's Budget that are of particular importance to member Tribes of ATNI. As an organization dedicated to preserving our sovereign rights secured under In-

dian Treaties, Executive Orders and benefits to which we are entitled under the laws and constitution of the United States, our testimony reflects some of the most urgent concerns within the area we represent. The United States and Tribal Governments are beginning a new chapter in the history of Tribal Sovereignty. Our Tribal Leaders before us affirmed and secured our sovereign rights when they negotiated our treaties, and we are now poised to set into motion the next phase of economic advancement and the continuance of our rights for future generations.

We do not want to see the current state of the economy undermine recent gains Tribes have made, and we call upon the United States government to protect all funding that upholds its treaty obligations to Indian country. Our urgent concern is that overall discretionary spending, the part of the budget that funds many of the trust and treaty obligations to Tribes, was capped by last year's Budget Control Act for FY 2013. The Budget Control Act also charged a Joint Committee on Deficit Reduction to come up with \$1.5 trillion in additional deficit reduction. However, the Committee failed and automatic sequestration was triggered (across-the-board-cuts), which is scheduled to go into effect January 1, 2013. The budget request, if enacted, would replace the \$1.2 trillion sequester with a set of spending cuts that makes cuts to low priority programs and increases resources for job creation and investment.

Many Tribal programs fall into the category of non-defense discretionary funding. In preparation for the President's budget, some agencies have consulted with Tribes about programs in the budget. Some recommendations from Indian Country are included in the FY 2013 proposal, such as increases for contract support costs, natural resources and environmental protection programs, public safety initiatives, and contract health services. We assert that across-the-board cuts without Tribal consultation frequently results in unintended consequences that are detrimental to Tribal interests.

Trust obligations to Tribes and individual Indians pre-date the establishment of many Federal programs and are the basis for the present-day economic opportunities that are available to the United States and its citizens. The policies now being implemented within the federal system that are designed to manage the federal deficit, which was not caused by Tribes or Indian people, are further evidence that funds needed for the fulfillment of trust obligations to Tribes should not be controlled by budget limitations in the same manner as applied to non-Indian programs.

Sustained funding for Tribal self-determination is critical to the economic foundation of Indian Country. Tribes look forward to contributing to the economic recovery, but to do so, Tribes must assume their rightful place as full partners in the American family of governments. Given the historic disparity in resources for Tribal governments compared to similarly situated governments, now is not the time to retreat from fulfilling the promises made to Tribes.<sup>1</sup>

### **Program Funding Levels**

#### *Indian Housing*

The funding levels for the Indian housing programs within the Department of Housing and Urban Development are maintained at current level funding from enacted FY 2012 appropriations levels. The President's budget proposal established a spending level of \$44.8 billion in budget authority for the U.S. Department of Housing and Urban Development (HUD), a 3.2 percent increase above the FY 2012 funding level.

While there is an overall increase in funding for HUD, the Administration has proposed level funding for the Indian Housing Block Grant (IHBG) at \$650 million for FY 2013. Should the President's budget proposal be accepted, it would mark the third consecutive year that the federal budget for Tribal housing programs would be flat-lined. The budget proposal also includes \$60 million for the Indian Community Development Block Grant (ICDBG), the same level of funding that was appropriated in FY 2012, and zero funding for the widely acclaimed training and technical assistance (T/TA) program.

To keep pace with the increased cost of housing construction, energy costs, and other inflationary factors, the IHBG should be funded at \$875 million dollars in FY 2013; however, Indian Country understands the current constraints in the federal budget and strongly requests that the IHBG be funded at no less than \$700 million dollars. Further, we request that the ICDBG be set at \$100 million for the much-

<sup>1</sup>NCAI Analysis of the President's FY 2013 Budget Request.

needed housing, infrastructure and economic development activities that the ICDBG provides, and that the T/TA funding be funded at no less than \$4.8 million.<sup>2</sup>

*National American Indian Housing Council Training and Technical Assistance.*

The National American Indian Housing Council (NAIHC) is the only Indian housing organization that provides comprehensive training and technical assistance (T/TA) on behalf of Tribal nations and their housing programs. The President's proposed budget eliminates entirely the much-needed, exceptional T/TA that has been provided by NAIHC. The provision of T/TA is critical for Tribes to build their capacity to effectively plan, implement, and manage Tribal housing programs. Eliminating funding for T/TA would be disastrous for Tribal housing authorities and would be a huge step in the wrong direction. Tribes need more assistance in building capacity, not less.

*Unexpended Indian Housing Block Grant Funds*

While some Tribes are expending their Indian Housing Block Grant (IHGB) funds in a timely manner, because of delays caused by required environmental reports or construction issues, other Tribes are unable to spend the money within the Department of Housing and Urban Development's (HUD) required timeframes. Other barriers that are causing a backlog of unexpended funds include the limitations associated with HUD's Line of Credit Control Systems (LOCCS), leasing delays, lack of physical infrastructure, the continued need for Tribal capacity-building, and others. Additionally, small Tribes need to have the leeway to put funds aside for 3–5 years prior to going into construction, and even then they can only build a few houses at a time.

The HUD Offices are currently pursuing corrective action against some Tribes for non-expended Indian Housing Block Grant funds but are not providing current information needed for Tribes to address and correct the issues. The amounts provided through a Freedom of Information Act (FOIA) requests are identical to levels from a year ago. We urge that the barriers to more efficient and effective management of Indian housing programs be addressed quickly through an expedited rulemaking session.

*Border Issues*

The President's budget proposes to cut Public Safety and Justice Law Enforcement—Special Initiatives—\$2,550, eliminate the Southwest Borderlands Initiative \$1 million, reduce Intelligence Sharing—\$550,000, reduce Institute for Marine Remote Sensing (IMaRS) \$1 million, which includes funding to secure international borders that lie within Indian country.

Border Tribes are especially vulnerable to national security threats. These communities have multiple access points for drug smugglers to enter the United States, into Tribal homelands. Within Indian country, there are thousands of miles of waterways, remote logging roads, and major highways that are vulnerable to international drug trafficking.

The drug trafficking organizations (DTO's) know there are jurisdictional challenges between Tribes, states, and federal agencies and they exploit those challenges to introduce drugs into the United States. Reservations also provide drug smugglers with a shield because they know the only entity that has full jurisdiction over them are federal agencies that have limited resources in providing assistance to Tribal law enforcement agencies and federal prosecution.

Other barriers that impede effective border protection within Indian country include the vast and remote nature of Tribal lands, accessibility and mobility, illegal immigration, and citizens attempting to aid illegal aliens. All of this works to the benefit of the drug smugglers and to the detriment of Indian country and the United States.

Another common issue with all Tribes is the availability and historical collection of data. This is very important because data generates the statistics needed in order to track the information. Information regarding statistics and other data is limited in Native American communities for several reasons:

- There is lack of intertribal drug coalitions to serve as a national or regional clearinghouse for information, with this provision in place confidential storage and access agreements are also an issue;
- Jurisdictional information is limited between county, state and federal networks, therefore unduplicated counts are not easily assessed; and,

<sup>2</sup>National American Indian Housing Council FY 2013 Budget Request.

- Not all Tribes have the resources and capacity to perform drug and immigration interdiction operations.

In order to be productive and effective with enforcement techniques, an intelligence driven operation with standard collection, processing and exploitation, analysis and production, and dissemination of information, as well as planning and direction will be easier to implement. This is such a critical element, as it would then allow the government to provide funding where it counts.

#### *Natural Resources*

Fiscal Year 2013 presents an important opportunity for the Federal Government to invest in sustainable futures for Tribes and for all Americans by contributing to Tribal natural resource management. Such an investment will foster Tribal economic self-sufficiency, cultural revitalization, and collaborative working relations across jurisdictions.

In particular, there must be an increase in funding for Bureau of Indian Affairs (BIA) natural resource programs. This funding has declined incrementally over decades more precipitously than other Department of the Interior (DOI) natural resource programs. And yet Tribes continue to be ineligible for dozens of natural resource programs across the federal agencies that are otherwise available to states, local governments, and other entities. BIA programs are often the only source of funding to protect Tribal lands. Yet, the funding inequities are profound: per acre funding for Forest Service lands is three times the per acre funding for Tribal forest lands; per acre funding for the DOI invasive species program is five times the per acre funding for the BIA's Invasive Species Program; and the BIA's percentage allocation of funding across the six DOI agencies under the Cooperative Landscape Conservation Initiative is a meager 0.12 percent.<sup>3</sup>

The BIA Rights Protection Implementation Program has a clear and direct relationship with the federal trust obligation to Tribes. This program supports the implementation of the Tribal rights secured by treaties and other legal obligations, enabling 49 Tribes in the Pacific Northwest to exercise their off-reservation hunting, fishing, and gathering rights. This funding is also essential for the protection of Tribal economic, subsistence, cultural, and medicinal practices, as well as the sustenance of healthy, productive Tribal nations and our surrounding states, local governments, and neighboring communities. We request increased funding to \$40 million for the BIA Rights Protection Implementation. However, individual accounts have been reduced by as much as 40 percent or raised as much as 67 percent without explanation or rationale. We ask that the Bureau of Indian Affairs return to the 2010 allocation formula and consult with Tribes prior to funding allocation changes.

Provide \$8.75 million in funding for the BIA Cooperative Landscape Conservation Initiative. Tribal peoples, lands, and infrastructure are disproportionately impacted by climate change.

Tribal governments experience unique challenges relative to other governments in their access to federal resources with which to plan and address those impacts. Disparities in funding and capacity complicate and extend existing Tribal needs in relation to climate change. This reality underscores the inequity in the FY 2012 DOI budget request for \$175 million to fund the Cooperative Landscape Conservation Initiative that included only \$200,000 for the BIA. Tribes request \$8.75 million of the Initiative's FY 2013 budget to remedy this disparity.

Provide \$17.146 million for BIA Western Washington Fisheries Management. The FY 2012 appropriations provided a total of \$8.257 million. This will provide new monies for shellfish, groundfish, enforcement, habitat, wildlife and other natural resource management needs.

Provide \$2.4 million in funding for BIA Salmon Marketing. The FY13 Budget contains \$1.068 million. This is the true need as determined by the Tribes at the request of Congress. Marketing costs are increasing as Tribal hatchery production continues to increase.

Provide \$5.452 million in funding for BIA Fish Hatchery Maintenance. This BIA program has been increased over the last few years to better reflect the Tribal need and the backlog of maintenance projects requested for Tribal hatcheries. This request is a \$614,000 increase over the President's request.<sup>4</sup>

#### *NOAA Regional Ocean Partnership Grant*

Provide \$20 million to the NOAA Regional Ocean Partnership Grant. The Regional Ocean Partnership Grants Program is a new competitive grant program within the National Ocean Service that was proposed in the FY 2011 President's budget

<sup>3</sup> Columbia River Inter-Tribal Fisheries Commission FY 2013 Budget Request.

<sup>4</sup> Northwest Indian Fisheries Commission FY 2013 Appropriations Briefings

request to advance regional ocean partnerships. Tribes supported the NOAA request for FY 2012 of \$20 million for this grant program. Regional ocean governance mechanisms facilitate the effective management of ocean and coastal resources across jurisdictional boundaries by improving communications, aligning priorities, and enhancing resource sharing between state, local, Tribal, and federal agencies.

*Provide \$110 million to the Pacific Coastal Salmon Recovery Fund*

The Pacific Coastal Salmon Recovery Fund (PCSRF) addresses watershed restoration and salmon recovery work for both Endangered Species Act listings and populations, and is critical to meeting trust obligations codified in treaties, laws, and other legal instruments regarding Indian fishing rights. This fund originated the groundbreaking multi-governmental collaborative project in salmon habitat restoration that was led by the Nisqually Tribe and recognized by President Obama with the nation's first and only Coastal America Partnership Award in late 2011. The President's FY 2012 budget included \$65 million for PCSRF, and \$80 million was appropriated in FY 2010. Tribes support an increase of \$45 million from the FY 2012 level as a wise investment in a program that creates a ripple effect including economic, ecological, social, cultural, legal, and intergovernmental co-benefits.

The FY 2012 appropriations provided a total of \$65.0 million. This is almost \$15.0 million less than the FY 2011 enacted level of \$79.84 million. In addition, the FY 2012 authorizing language now includes Alaska native subsistence fisheries, which will increase the number of recipients with decreased funding. The President's FY 2013 budget contains \$50.0 million. We request \$110.0 million for the PCSRF, an increase of \$60.0 million over the President's request which has decreased since 2002. We will continue to seek an equitable allocation to the member Tribes through the NOAA Fisheries administrative distribution process. These dollars are necessary to continue funding watershed restoration and salmon recovery work as well as fish hatchery reform efforts.

*Environmental Protection Agency*

Provide \$50 million in funding for Environmental Protection Act (EPA) activities in Puget Sound. This is an increase of \$30 million in funding over the President's request. Through the EPA's distribution process, this will result in the needed increase to Tribes and Tribal consortia for Tribal capacity building and implementation projects.

Provide \$20 million in funding for EPA Multi-media Tribal Implementation Grants Program. This program, which is not funded in the President's FY 2013 budget, will provide targeted grants to Tribes for implementation of federal environmental programs and is an opportunity to move our General Assistance Program (GAP) "Beyond GAP" initiative forward. It would move the EPA/Tribal partnership from capacity building to implementation of these important environmental programs.<sup>5</sup>

*Small Business Administration Native 8(a) Program*

The President's FY 2013 budget decreases the funding for the Office of Native American Affairs (ONAA) for its outreach initiatives to \$0.85 million—a reduction from \$1.25 million in FY 2012. ONAA will continue outreach to Native American Tribes and Native American, Alaska Native and Native Hawaiian entrepreneurs to ensure access to key Small Business Administration (SBA) programs including entrepreneurial development, lending, and contracting. Specifically, \$722,500 is planned for contractual services to fund the Native American entrepreneurial development initiative; the Native American veterans outreach series; and the Tribal Uniform Commercial Codes (UCC) development initiative, in conjunction with the Federal Reserve Bank of San Francisco. The ONAA also plans collaboration programs with Treasury, Tribal colleges and universities and small business development centers to encourage Tribal outreach initiatives.

It is important to highlight the importance of the Native 8(a) program in the context of budget priorities. Although the Native 8(a) program is not a line item in the President's budget request, it serves as a critical tool for Tribes, Alaska Native Corporations (ANC's) and Native Hawaiian Organizations (NHOs). The Native 8(a) program provides revenue for Native firms in the program, and the profits are used to partially fund Tribal budgets, provide benefits to our Tribal members, and to be reinvested back into our businesses. The 8(a) program is used to supplement, and in many cases substitute, federal underfunding for Tribal programs. In an era of tight federal budgets, this program is a win-win: Tribes are able to compete and receive needed revenue, and the Federal Government receives valuable goods and

<sup>5</sup>Northwest Indian Fisheries Commission FY 2013 Appropriations Briefings.

services. This program should be protected and continued to develop Native economies across the country.

*Department of Transportation*

The Department of Transportation (DOT) President's budget request for FY 2013 envisions critical investments in infrastructure that are vital to the nation's economic success. Included in the budget is a new six-year \$476 billion surface transportation reauthorization proposal to improve the nation's transportation infrastructure. The President's budget also seeks to fully pay for the transportation investment through gas tax and other revenues and from the savings from the Overseas Contingency Operation reductions, a decrease of military operations.

Additional changes included in the DOT's FY 2013 budget is the consolidation of 55 surface transportation programs within the Federal Highway Administration to five core programs: (1) Highway Safety Improvement Program; (2) National Highway Program; (3) Livable Communities Program; (4) Federal Allocation Program; and (5) Research, Technology and Education Program. A major change has also been to rename the Indian Reservation Roads Program (IRR) and has been changed to the *Tribal Transportation Program (TTP)*, this will encompass the former IRR Bridge Program, planning, and a new safety program for TTP roads. The amount requested for FY 2013 for Tribal Transportation Program is \$600 million with gradual step increases for each fiscal year up to \$785 million for FY 2018.<sup>6</sup>

**Conclusion**

We acknowledge that the economic fiscal stability of the United States is influx and we are supportive and understanding of the need to tighten the spending belt. What we are not supportive of is not honoring the trust responsibility to the First Americans and the promises made in perpetuity to ensure the health, safety and education of our Native peoples.

Thank you for the opportunity to submit this budget testimony regarding the President's 2013 Proposed Budget on behalf of the Affiliated Tribes of Northwest Indians.

The CHAIRMAN. Thank you very much, President Sharp, for your testimony.

Chief Hicks, will you please proceed with your testimony?

**STATEMENT OF HON. MICHELL HICKS, PRINCIPAL CHIEF, EASTERN BAND OF CHEROKEE INDIANS; ON BEHALF OF THE UNITED SOUTH AND EASTERN TRIBES, INC.**

Mr. HICKS. Chairman Akaka, we appreciate the opportunity. It is good to be here today, good to be back in D.C.

Of course, we are here today to testify on behalf of the United South and Eastern Tribes, which we are one of the founding members, alongside of the Seminoles of Florida and Miccosukee of Florida and the Mississippi Choctaw. There are 26 member Tribes within the USET organization.

I have worked for many, many years on budget and finance issues and of course, was elected in 2003 as the Principal Chief of the Eastern Band. I served as the budget and finance director and of course, I also served in a capacity as an independent auditor for our Tribe for a number of years, with a New York based accounting firm. I have held my certified public accounting license for 18 years now.

The reason I say that is not to define myself, but to say I understand how difficult the budgeting process is. The Eastern Band has adopted what we call a balanced budget act. What this assures is that the cost of our government does not exceed the available resources. I know you guys have to deal with a similar structure.

<sup>6</sup>NCAI Analysis of the President's FY 2013 Budget Request

But one of the things that I think we have done a very nice job of is identify, through needs-based or critical programs, critical priorities for our government and of course, remembering what the obligation is to the people of our Tribe and the people of our region. The 2013 budget should reflect a Federal priority of honoring its treaty and trust obligations to Indian people.

Overall, I think we can all say that we share a concern related to inflation, especially medical inflation, and the declines in allocations or declines in allotments to specific areas that affect many of the Tribal programs. And of course, the biggest issue that I think we are all facing is just simple purchasing power. Any time inflation kicks in, any time that you are minimizing the resources, purchase power declines. And it affects the services that we can put on the ground to the people, again, in the various areas.

I have been fortunate to travel throughout the Nation and to visit with many of the Tribes that I am testifying for today. And there are a lot of needs in Indian Country that are undone. There is a lot of need out there that we as a Federal Government, we can't leave it as it is. There are a number of priorities that have to be addressed.

And of course, we all are aware of the history of the Cherokee people. It is no secret to anyone, the travesties that have occurred, in addition to the history and treatment of all Native peoples and Tribes. Of course, we can't forget these travesties. But we must remind ourselves about our obligation as Tribal leaders. We have to remind you folks of your obligation in regards to the trust responsibilities to take care of the people.

I guess as you look at this land that we are blessed with, there is not one inch of this particular land in our great Nation that lies without Native people's blood that is entrenched deeply into this soil. Not one inch. Our identity and traditions are vibrant, even though we are less than 1 percent of the population. We are still a strong people and we still have considerable needs that have to be taken care of.

USET believes that Indian Tribes should be held harmless in these difficult days of budgeting. Make no mistake, these budgeting priorities directly impact lives of our Native people. We have received various grants, through contracts, et cetera. Just a couple of examples, the IHS, and I know there has been some small increases there this year, but we have historically seen where surgeries have been postponed that were not life-threatening, but were critical. Again, with my travels throughout the Nation, there is a lot of need out there that has to be met. Our hospital is currently funded at 60 percent of the current levels that it should have.

Luckily, and again, we are blessed by having the resources to supplement that. But again, today many Tribes don't have that same opportunity. I hope that as we go through this process that that is part of our evaluation, that is part of our assessment as to how do we deal with that.

Dealing with the BIA, and I know there are so many responsibilities that affect education or land into trust, law enforcement, Federal acknowledgment and many other critical programs. There was a chart up here earlier, it is rather scary where the resources of the BIA are going. Unfortunately, the responsibilities continue to

grow. That affects how do we put leases on the ground to promote economic development, how do we get people in homes, by having adequate resources for surveys and appraisals. So there is concern across the board in these various areas.

One of the other critical points I think definitely applies to all of Indian Country. The Eastern Band has a disturbing health issue, and it is called diabetes. Twenty-five percent of our current population has some form of the disease. Again, it is critical. In 2011, the First Lady, Mrs. Obama, First Lady Obama identified what we call Cherokee Choices as a model program for reducing childhood obesity. But if you look in the budget this year, and this is identified under the Centers for Disease Control and Prevention, these funds have been cut out. We have serviced 6,000 members over the last 12 years with these funds.

Again, I know many Tribes are affected. But if you think about it, you think about the health care of our people, addressing health care is not once we have a disease, or not once we are ill. Preventive maintenance, preventive care is how we address the issues, not only today, but more importantly, in the future.

So I ask that in consideration of the budget this year, you guys go back and look at this particular area. Again, being able to educate our people, being able to promote, again, the preventive maintenance, I think is so important. And it is no different for Indian people than it is for any other members of the United States. So again, please focus on this.

In closing, I would like to say that the budget identifies the *Carcieri* fix. I hope through this Congress that that can be addressed. I believe that there is a severe injustice to our Indian people. The Eastern Band of Cherokee is not affected by it. But we stand beside our brothers, all 565 of them, to address this issue, to give us the economic opportunities, to give us the land base to continue to protect our sovereignty and give us that right.

I appreciate my time today and again, it is good to be back in D.C. May God bless you and the decisions of the Committee and this great United States.

Thank you.

[The prepared statement of Mr. Hicks follows:]

PREPARED STATEMENT OF HON. MICHELL HICKS, PRINCIPAL CHIEF, EASTERN BAND OF CHEROKEE INDIANS; ON BEHALF OF THE UNITED SOUTH AND EASTERN TRIBES, INC.

**Introduction.**

Chairman Akaka, Vice Chairman Barrasso and members of the Committee, my name is Michell Hicks. I serve as Principal Chief of the Eastern Band of Cherokee Indians, one of the four founding tribes of the United South and Eastern Tribes, Inc. (USET). Thank you for this opportunity to testify on the President's FY 2013 Budget and the budget priorities of USET.

USET is an inter-tribal organization representing 26 federally recognized Tribes from Texas across to Florida and up to Maine. The USET Tribes are within the Eastern Region of the Bureau of Indian Affairs (BIA), covering a large expanse of land and area compared to the Tribes in other BIA Regions. Due to this large geographic area, the tribes in the Eastern Region have great diversity. From an economic standpoint, some of our member tribes have highly developed economies, while others remain mired in poverty. All of our tribes, however, look to the United States to live up to its trust responsibility, to support Tribal sovereignty, and to work with us on a government-to-government basis, especially on a matter as central to the trust responsibility as Federal budget policy.

This written testimony is divided into three sections. The first section briefly addresses the Constitutional context for the Federal Government's relationship with Tribes. The second section reviews the President's proposed budget for Indian programs, focusing principally on the BIA and the Indian Health Service (IHS). The third section takes up the challenge put forth by the President and the Congress to propose other measures, most of which would be no-cost, that will create jobs and grow tribal economies to the benefit of the United States, as a whole. In this third section, we set forth recommendations USET made to the Joint Committee on Deficit Reduction regarding legal changes that should be made to unleash tribal economies. We also address the urgent need to pass the *Carcieri* Fix, which this Committee has strongly supported, which the President has included in his budget, and which would immediately allow a number of projects across Indian country to spring forward.

### **I. The Constitution, Indian Tribes, Treaties and the Laws of the United States**

From the earliest days of the United States, the Founders recognized the importance of America's relationship with Native nations and Native peoples. They weave important references to those relationships into the Constitution (*e.g.*, Art. I, Section 8, Cl. 3 (Indian Commerce Clause); Article II, Section 2, Cl. 2 (Treaty Clause).

Natives influenced the Founders in the development of the Constitution as recognized by the 100th Congress, when the Senate and the House passed a concurrent resolution acknowledging the "historical debt" the United States owes to Indian tribes.

[O]n the occasion of the 200th Anniversary of the signing of the United States Constitution, acknowledges the historical debt which this Republic of the United States of America owes to the Iroquois Confederacy and other Indian Nations for their demonstration of enlightened, democratic principles of government and their example of a free association of independent Indian nations; . . .

S. Con. Res. 76, 100th Congress. One has only to walk the halls of the Capitol to see many works of art and sculpture that depict the central role that Native nations have played in the development of America's national identity. Not depicted on the walls of the Capitol are the many injustices that Native peoples have suffered as a result of Federal policy, including Federal actions that sought to erode Native territories, learning, and cultures. Out of those injustices, and from other legal sources, there has arisen a Federal trust obligation to support Native governments and Native peoples.

The Indian provisions in the Constitution were given immediate life in treaties that the United States entered into with Indian nations beginning with the Treaty with the Delaware in 1778 and continuing through another 373 treaties. Additionally, in the first decades of the United States, numerous laws were enacted addressing the details of the Federal-Tribal relationship (*e.g.*, Trade and Intercourse Acts of 1790, 1793, 1796, 1799, 1802, and 1834), even as the Federal courts defined the Federal Government's trust obligation to Indian nations (*e.g.*, *Cherokee Nation v. Georgia* (1831)). Notwithstanding this Constitutional foundation, the Federal Government engaged in many actions that betrayed the treaties and trust obligation to Indian nations, such as the seizure of Indian lands and the forced assimilation efforts of the Indian boarding school system. Fortunately, American greatness has led to more enlightened policies since the boarding school era, reflected in a host of laws that support tribal sovereignty and are critical to the vitality and well-being of tribal communities. Regrettably, these laws are rarely funded to the level necessary to achieve their intended purposes.

Because of this history, the Trust obligation of the Federal Government to Native peoples, as reflected in the Federal budget, is fundamentally different from ordinary discretionary spending. As a 1977 U.S. Congress/American Indian Policy Review Commission Report stated:

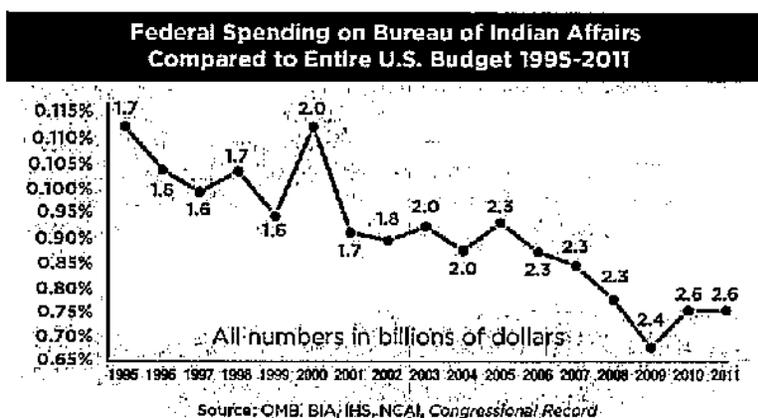
The purpose behind the trust is and always has been to ensure the survival and welfare of Indian tribes and people. This includes an obligation to provide those services required to protect and enhance Indian lands, resources, and self-government, and also includes those economic and social programs that are necessary to raise the standard of living and social wellbeing of the Indian people to a level comparable to the non-Indian society.

### **II. President's FY 2013 Budget for Indian Programs**

In evaluating whether the Federal budget fulfills the Trust responsibility, USET believes that it is critical to take into account the affects of inflation. From FY 2002 through FY 2008, despite annual increases, after taking into account the affect of

inflation, most Federal domestic programs, including the Indian programs, saw a purchase power decrease of approximately *14 percent*. The large budget increase in FY 2009, including ARRA funding, was approximately enough to make up for this effective cut and bring the purchase power of Indian programs back to FY 2002 levels, but in the intervening 10 years, Indian country needs have grown substantially.

In a very real way, the budget of the United States government reflects the values of the American people. Courtesy of the National Congress of American Indians (NCAI), set forth below is a chart that depicts the percentage of the Federal budget dedicated to funding the BIA. As you can see, as a percentage of the overall budget, the BIA budget has declined from .115 percent in FY 1995 to .075 percent (correcting chart typo) in FY 2011, approximately a one-third decline as a percentage of the overall budget (despite a small bump up in FY 2010).



The President's FY 2013 budget proposes an increase of 2.6 percent in the Indian Health Service budget, which is \$116 million over the FY 2012 enacted level. Although USET recognizes that in these difficult budgetary times any increase should be celebrated—and we are appreciative that health care is getting this increase—we must note that the general rate of inflation in 2011 is over 3 percent. Moreover, it is common for the medical rate of inflation to exceed the general rate of inflation by as much as double. Meanwhile, the President has proposed a modest \$4 million cut in the budget of the BIA, but in light of inflation this must be understood to be potentially a 3 percent cut in purchase power. Overall, both agencies lose purchase power from FY 2012, even if some individual programs receive funding in excess of the inflation rate.

Of course, the Budget Control Act of 2011 provides for an 7–10 percent across-the-board cut for nearly all domestic and defense programs starting January 2, 2013. When you add the effects of sequestration to inflation, Indian country programs, which have always been sparsely funded, could be effectively cut by as much as *11–14 percent!* This would be devastating to Native communities across the land.

Federal budget problems should not be addressed on the back of Native peoples. We respectfully ask the Committee to support the concept that funding increases should consistently exceed the relevant rate of inflation in order to achieve real progress in closing the services gap for Natives. At a minimum, Federal Indian programs should be held harmless from any reductions coming from sequestration or similar future draconian cuts, just as other low income programs are held harmless in the Budget Control Act of 2011 (*e.g.*, Child Care Entitlement to States; Child Health Insurance Fund; Family Support Programs and Temporary Assistance for Needy Families).

USET does strongly support the President's proposal for \$345 million for public safety initiatives in Indian Country, with a total of \$156.8 million set aside for tribal grant programs within the Department of Justice. This latter amount is less than what was proposed for FY 2012, but still represents a significant step up from current funding levels and will have a tremendously positive impact on public safety in Indian Country.

USET is discouraged by the proposed \$52.8 million cut in the Bureau of Indian Education construction account. Although less of an impact on the USET area than other areas, USET strongly believes that the investment in Native education is the

one investment that is sure to make a positive difference in Indian Country for the long-term.

#### *General Budget Considerations*

While USET believes that *all* Indian programs are vital to creating strong Tribal Governments and healthy Tribal communities, and that Congress should protect and improve current base funding levels for all programs and provide for increases in excess of the inflation rate, the USET priority programs are: Tribal Priority Allocations, Contract Support, Tribal Court, Scholarships and Cultural Resources.

- *Tribal Priority Allocations (TPA)*. Funding for the Eastern Region Tribes TPA needs to increase by at least \$10 million, even without considering our unmet historical needs.
- *Tribal Courts*. Currently, in the Eastern Region only 46 percent of the tribes receive BIA funding for the operation of their tribal courts. There should be sufficient funding for any tribe that needs to establish a court.
- *Scholarships*. Over the last several years, funding for BIA's post-secondary education programs has remained largely stagnant. This area should see increased funding.
- *Contract Support Costs*. There should be sufficient funding to assure that the BIA is able to meet 100 percent of its contract support obligation. Other Bureaus within the Department of Interior, as with other federal agencies, have achieved their obligation of paying a 100 percent contract support costs to their non-native contractors; this obligation cannot be ignored when it involves tribal 638 contractors.
- *Cultural Resources*. Adequate funding for Tribal cultural resource programs is essential to the spiritual, health, social, and economic wellbeing of Tribal communities.

#### *Indian Health Service*

USET would like to reemphasize the need to maintain the recent gains IHS and tribes have made. USET firmly believes that the IHS budget should be held harmless in terms of budget reductions, including across-the-board rescissions and sequestration. Health care is not something that can be reduced, delayed, or withheld without real damage to people. Congress and the public have rightly supported maintaining health care funding for members of the military and veterans, and USET believes the same should be true of the Indian health care system. IHS and tribal budgets are suffering the consequences of the past two years' lack of funding for inflation and population growth.

With regard to the President's FY 2013 budget, of particular interest to USET are Contract Health Services, built-in costs, and contract support costs.

#### *Contract Health Services*

USET appreciates the recognition by Congress and the Administration of the importance of the Contract Health Services program, as evidenced by the FY 2012 increase in appropriations and the Administration's request for a \$54 million increase in FY 2013. While even this amount would not fully meet the need for Contract Health Services, we recognize the difficult fiscal environment, and urge Congress to appropriate at least the amount requested. The CHS program is of particular importance to the USET tribes, as much of our health care is done on a referral basis.

#### *Built-In Costs*

USET is very concerned about the cumulative effects of deficiencies in the past several years for built-in costs—namely, population growth, inflation, and required pay increases. The Administration and Congress do consistently request and provide funding for staffing and operation of new facilities, although not always in the amount the tribal health care providers feel is needed. In FY 2010 Congress provided \$169 million for built-in costs for pay raises, inflation, population growth, and staffing for new facilities. But in FY 2011, the only increases enacted were for a pay increase to Commissioned Officers and staffing of new facilities. The Administration had also requested \$60 million for inflation and \$52 million for population growth and funding for civilian pay increases for that year. And in FY 2012 the Administration requested \$255 million for pay costs, inflation and population growth, none of which was appropriated. All of these costs must be absorbed by health programs. In FY 2013 there is no request for funding for population growth, inflation (except for Contract Health Services) or pay increases. Funding is requested for staffing and operation of new facilities.

### Contract Support Costs

USET and its tribes appreciate the steps Congress has taken in the last few years to reduce the crippling contract support cost shortfalls suffered by tribal health care providers. Contract support costs are the administrative and overhead expenses tribes and tribal organizations incur in providing health care under Indian Self-Determination Act agreements. When contract support costs are not fully funded, as has been the case for almost twenty years, tribes are forced to slash administrative capacity, divert program resources to cover administrative expenses, subsidize federal programs with their own scant tribal resources, and/or curtail or forgo self-determination and self-governance altogether. In effect, tribes are shortchanged and treated as second-class government contractors.

Substantial increases in CSC appropriations in fiscal years 2010 and 2012 have reduced the shortfalls significantly, saving and creating jobs in tribal health care. More progress needs to be made, however. Underfunding of contract support costs continues to impose major hardships on tribal health care providers and patients around the nation, including USET's member tribes. Last year, in H.R. 2584, the House proposed funding IHS for contract support costs at \$574,761,000, which would have reduced the CSC shortfall dramatically. Ultimately, however, Congress appropriated just over \$471 million, requiring tribes to divert close to \$100 million from health care services to fixed administrative expenses.

USET urges this Committee to continue to press for full funding of contract support costs. The requested increase of \$5 million is not sufficient. Given the increase in program funding requested, we estimate that a CSC appropriation of at least \$580 million would come close to eliminating the shortfall, allowing USET's tribes and other tribal providers to use all health care program funds for the purposes Congress intended.

A word of appreciation is due to IHS for its advocacy and approach to contract support cost issues. During this Administration, IHS has engaged in good faith negotiations resulting in the settlement of many claims for past CSC shortfalls. Recently IHS initiated tribal consultation on the agency's CSC policy, convening a workgroup of tribal leaders and technical experts. The process had gotten off to a rocky start due to IHS's refusal to share CSC data for the last three years. Once IHS releases this data, however, we anticipate that the tribal consultation will help the agency strengthen its contract support cost policy.

### Timely Funding

We feel the time is ripe for a serious discussion about whether IHS funding should be put on an advance appropriations or biennial basis. As you know, in FY 2010, three of the Veterans Administration's medical accounts were put on an advance appropriations basis—those are very large accounts totaling approximately \$50 billion. Going back to 1998, the only year in which an Interior and Related Agencies appropriations bill has been enacted prior to the beginning of the fiscal year was FY 2006. Even if an appropriations bill is enacted just prior to October 1, it still takes time for OMB and IHS to apportion and allocate the funds. Receiving funds under a series of Continuing Resolutions, without knowing how much funding will be available in the fiscal year, makes planning and delivery of services very difficult.

USET and its member tribes appreciate this Committee's leadership in securing recent appropriations increases for IHS, and urge that this progress be continued. We also appreciate IHS's recent efforts to work with tribes on contract support costs and other issues. We look forward to working with Congress and the Administration to improve health care services to Indian peoples.

### III. Changes to Federal Law that would Create Jobs and Promote Indian Country Economic Development

USET would also like to present the Committee with a number of specific legislative proposals that the Committee could adopt which would have the effect of unleashing tribal economic potential and thereby addressing national deficit concerns.

#### *Carcieri Fix*

Foremost, USET would like to see passage of the *Carcieri* Fix, which the President included in his budget (and the previous two, as well) and which this Committee has marked up and referred out as S. 676. The *Carcieri* Fix would provide that the Secretary of the Interior could, in accordance with rigorous guidelines, take land into trust for all Federally recognized tribes. This bill is in response to the Supreme Court's decision in *Carcieri v. Salazar*, handed down in February 2009, which overturned 75 years of agency practice when it held that the Indian Reorganization

Act (IRA) only allows the Secretary of the Interior to take land into trust for tribes that were “under federal jurisdiction” as of 1934. No one knows what the Court meant by “under federal jurisdiction” as of 1934 as we had understood that all tribes, pursuant to the Constitutional provisions set forth above, ultimately are under federal jurisdiction. Indeed, since 1934, the Department of the Interior (DOI) has construed the IRA to authorize the Secretary to place land into trust for *all* federally recognized tribes. From 1934 to 2009, DOI has restored lands to enable tribal governments to build schools, health clinics, hospitals, housing, community centers, farms and other economic development enterprises to serve their people. The Secretary has approved trust acquisitions for approximately 5 million acres of former tribal homelands, far short of the more than 100 million acres of lands lost through the Federal policies of removal, allotment, and assimilation. The Court’s decision threatens tribal sovereignty, economic self-sufficiency and self-determination. The IRA is a comprehensive federal law that provides not only the authority of the Secretary of the Interior to take lands into trust for tribes, but also for the establishment of tribal constitutions and tribal business structures. Disorder in these areas of the law threatens all types of economic development opportunities, loans and financing, contracts and loans, and tribal reservations and lands. The decision also has the potential to create chaos in public safety and criminal jurisdiction on Indian reservations. The *Carciere* decision has already resulted in costly, protracted litigation on a broad range of issues with the United States, at taxpayer expense, is a defendant in more than a half dozen of these lawsuits. In addition, a number of Indian Country projects have slowed or been put on hold while Tribes and investors alike try to puzzle out the implications of the Supreme Court’s holding. Notably, the Congress amended the IRA in 1994 to clarify that all federal agencies must provide equal treatment to all Indian tribes regardless of how or when they received federal recognition.<sup>1</sup>

Also, Congress needs to permanently resolve this issue to end needless challenges against the United States and tribes. Although DOI may continue to acquire land in trust for tribes, any decisions to do so remain under the threat of *Carciere*-based administrative and court challenges. Those who oppose tribal sovereignty will use *Carciere* to challenge all trust acquisitions, even for tribes with longstanding treaty relations with the United States and clear federal recognition in 1934. Even lands currently held in trust for such tribes are now subject to challenge in court under the Patchak decision. Each Tribe is obliged to comb through years and volumes of historical records to meet a standard—“under federal jurisdiction”—that remains a moving target. This uncertainty undermines the very purpose of the IRA. Congress must provide Indian country certainty by enacting the proposed legislative fix.

#### *Repeal the “Essential Governmental Functions” test*

Repeal of this test is ripe for congressional action. If repealed, the new law would open the door to lower cost financing for tribal government development programs, to more cost-efficient pension plan management, and to greater parity between tribal governments and state and local governments.

An issue that has been brought to the Congress’s attention in recent years has been the disparity in the Tax Code’s treatment of tax exempt bonds issued by Indian tribal governments and those issued by state and local governments. Unlike state and local governments, tribal governments may only issue tax-exempt bonds to finance projects that are deemed “essential governmental functions” of the tribe. Based on its interpretation of the essential government functions language in the Tax Code, the IRS has challenged tribal tax-exempt bond financing for the development of hotels, RV parks, water systems and other tribal projects to generate on-reservation revenues on the ground that those bonds serve a commercial, rather than governmental function. The imposition of the essential governmental functions test suggests that tribal revenue generating activities that are necessary to meet budget needs to provide for the welfare of tribal citizens when carried out by tribes are commercial rather than governmental activities and limits the opportunities tribes might otherwise have for low-interest financing. Meanwhile, State and local governments *routinely* use this kind of tax-exempt financing for hotels, golf courses, and convention centers on the ground that those development projects will generate governmental revenues.

USET applauds Congressional action in the Recovery Act that introduced a new Tribal Economic Development Bond authority that did not limit bond activity to “essential governmental functions.” We further welcome Congress’s request in that Act to require the Treasury Department to make recommendations as to the whether Congress should reconsider the “essential government functions” test currently ap-

<sup>1</sup>See 25 U.S.C. §476(f)-(g).

plicable to tax-exempt bonds. As you know, in December 2011, Treasury issued recommendations calling on Congress to repeal the essential governmental functions limitation for taxexempt bonds. Treasury urged that Congress further explore the complex issues associated with tribal access to credit markets. USET urges that Congress act upon the Treasury Department's recommendations to eliminate the essential governmental functions restriction on the issuance of taxexempt bonds. USET calls on Congress to hold hearings on obstacles to credit finance markets and identify legislative mechanisms to help address credit challenges in Indian Country.

USET further urges that the essential governmental functions limitation also be repealed in section 414(d) of the Tax Code, with respect to governmental pension plans. The essential governmental functions limitation in that context impedes efficient tribal governmental administration and employee retention. In the Pensions context, tribal employees are eligible to participate in a tribe's "Governmental" Plan *only if* they perform "essential governmental functions." Employees of tribal casinos, tribal gas stations, marinas, and other enterprise must be segregated to exclude them from participation in the tribe's Governmental Plan. For states and local governments, "Governmental Plan" status is based on whether the entity is an agency or instrumentality of a government and includes all employees regardless of what functions they perform. For Tribes, however, because of the "essential functions limitation" in Section 414(d), the IRS looks at the functions and activities being carried out by the employees—if IRS deems their activities to serve "commercial" functions, those employees are not eligible to participate in a Governmental pension plan. As a result, a tribe must administer two separate plans—one for governmental employees and another as a "Commercial" plan with the burden of administering duplicative plans with different sets of rules that are considerably more costly than that of their state and local government counterparts. Congress should tackle the essential governmental functions language in both contexts in order to remove barriers to economic development and efficient tribal governmental employment benefit administration as well as to establish greater parity between tribal governments and state and local governments.

*Unlock Vast Tribal Energy Resources—Adopt S.1684, Indian Tribal Energy Development and Self-Determination Act Amendments of 2011*

It is estimated that 10 percent of the Nation's energy reserves are located on tribal lands, including large fossil fuel, wind, solar and biomass resources. However, it has become very difficult for tribes to develop these resources. S. 1684 provides a range of measures to assist tribes in getting these resources developed and power to the market place—creating jobs, reducing our dependence on foreign sources of energy, and generating revenue to Tribal, Federal and state coffers.

*Accelerate the Process for Indian Land Leasing to Allow More Efficient Development of Tribal Lands—Adopt S. 703, Helping Expedite and Advance Responsible Tribal Homeownership (HEARTH) Act of 2011*

This legislation would allow tribes to administer their own land leasing process, rather than continuing the paternal practice of control by the Bureau of Indian Affairs. This legislation not only respects tribal sovereignty, but virtually guarantees a more efficient process, which will encourage development of tribal lands in accordance with tribal decisions. USET thanks the Committee for advancing this legislation.

*Transformational Proposals to Unleash Tribal Economic Development*

USET and its members have developed legislative proposals, not yet introduced into the Congress, but which we believe would (1) have a tremendously beneficial impact for tribal economies, (2) be consistent with the Federal Government's trust obligation to Tribes, (3) be respectful of tribal sovereignty, and (4) generate jobs and revenues for the Tribal, Federal and State governments. These proposals would address the many tangled and twisted Federal Indian policies and programs, would address barriers to Indian economic development by removing those barriers, and would establish pilot projects in certain areas that we believe have the potential to generate tremendous economic activity, but which are largely untried.

- *Restoring Tribal Land Leasing Authority.* The authority of Indian nations and tribes to lease land they occupy that is held in trust is limited by statute to varying lengths of time, from 25 years to 99 years. This approach perpetuates the paternalism inherent in federal trusteeship law that results in uneconomic delays and public citizen procedures. This bill would authorize up to fifty requesting Indian nations and tribes, as a demonstration project, to declare tribal leasing authority over specifically identified lands without federal involvement or approval and the accompanying public citizen procedures.

- *Restoring Tribal Restricted Fee Land Title.* Tribes who occupy tribal restricted fee lands (for which they hold fee title subject to a federal restriction against taxation and alienation) are able to mortgage, lease, and develop without the Federal Government involvement and interference that accompanies development of land held in trust for the tribe by the Federal Government. This bill would authorize up to fifty requesting Indian nations and tribes, as a demonstration project, to convert some portion of their tribal trust land into tribal restricted fee land. The bill would clarify that all tribal restricted fee lands, however authorized, are Indian Country over which an Indian nation or tribe may exercise leasing and other land use authority without federal involvement or approval and the accompanying public citizen procedures. The bill would not diminish the federal trust responsibility nor would it amend the Indian Reorganization Act (IRA) nor affect the I.R.A. regulations.
- *Establishing Tribal Tax-Free Zones.* In order to jump start economies in Indian Country and create real financial incentives for the creation of private sector jobs, this far-reaching proposal would, on a demonstration basis, declare all Indian reservations choosing to participate to be tax-free zones. All economic activity occurring upon these Indian zones would be declared to be exempt from federal and state tax of every kind. This should cause private sector commerce and trade to move into relatively impoverished Indian Country bringing with it jobs and investment that benefit reservations and their neighbors. The demonstration project would limit the number of participating Indian nations and tribes to fifty in order to contain the federal budget cost score. The bill also would authorize an Indian nation or tribe to raise tribal governmental revenue from non-Indians who conduct otherwise tax-free activity on Indian lands with the nation or tribe's permission.
- *Restoring a Tribal Lands General Tax Credit.* This bill would provide a 100 percent tax credit against all taxes otherwise imposed by the federal, state and local governments on certain qualified business activity occurring on certain portions of Indian Country with the permission of, and under fee and other terms established by, the governing Indian nation or tribe. The taxes against which this general credit would be applied include all sales, payroll, income, excise, transfer and severance taxes imposed by the United States, the various states, or subdivisions thereof. The demonstration project would limit the number of participating Indian nations or tribes to fifty in order to contain the federal budget cost score. It would be available in those portions of Indian Country suffering unemployment rates higher than twice the national average. To qualify for the credit, a taxpayer must adhere to Indian preference in employment related to the qualified business activity.
- *Establishing a Tribal Lands Investment Credit.* This bill would provide a 100 percent investment tax credit against the income tax liability of any taxpayer equal to the amount that taxpayer invests in certain new equipment and facilities placed in service in certain portions of Indian Country with the permission of, and under fee and other terms established by, the governing Indian nation or tribe. The demonstration project would limit the number of participating Indian nations or tribes to fifty in order to contain the federal budget cost score. It would be available in those portions of Indian Country suffering unemployment rates higher than twice the national average. To qualify for the credit, a taxpayer must adhere to Indian preference in employment related to the investment property.
- *Restoring Tribal Jurisdiction and Sovereignty.* This far-reaching legislation would take the 1968 Act which stopped Pub. L. 83-280 cessions and turn it on its head, allowing an Indian nation or tribe to vote to reject continuing applicability of Pub. L. 83-280, returning at tribal option all criminal and civil jurisdiction within the Indian Country of that Indian nation or tribe to the exclusive control of the Indian nation or tribe and the United States. The bill also would authorize an Indian nation or tribe to enter into a federally-approved Compact of Criminal Jurisdiction with a state government to govern, based on the mutual agreement of the Indian nation or tribe and a state, transfers of jurisdiction, whether reciprocal or otherwise, between them.

### **Conclusion**

USET recognizes that in challenging times, all Americans must be called upon to sacrifice for the common good of all. USET suggests, however, that when it comes to sacrificing for the good of all Americans, the historic record demonstrates that nobody has sacrificed more than Native Americans. Thank you for this opportunity to provide testimony on how the budget concerns of the United States, rather than

being addressed on the back of Indian tribes, could be addressed by freeing Indian tribes to realize their maximum economic potential.

The work of this Committee is very important to Indian Country. Please do not hesitate to contact me if you should have any questions or if USET can be of any further assistance.

The CHAIRMAN. Thank you very much, Chief Hicks, for your testimony.

Now Chairman Shepherd, will you please proceed with your testimony?

**STATEMENT OF HON. ROBERT SHEPHERD, CHAIRMAN,  
SISSETON WAHPETON OYATE; ON BEHALF OF THE GREAT  
PLAINS TRIBAL CHAIRMAN'S ASSOCIATION**

Mr. SHEPHERD. Thank you. [Greeting and introduction in Native tongue.]

Good afternoon, Chairman Akaka. I am honored to be here and represent this testimony on behalf of the Great Plains Tribes consisting of 16 sovereign nations.

The Great Plains Tribes have the largest geographical land base of any region in the United States, with over 11 million acres. Our Tribes have a total population of over 189,000 people, second only to the Navajo Nation.

We are proud of our nation, because we carry out true sovereignty and self-governance, even though we are not adequately funded. No unit of government can or should be asked to operate essential services on competitive grants. These grants are short-term funding solutions to long-term problems, and now have requirements that some Tribes are not able to meet. This results in limited services.

We therefore call upon Congress to maintain the BIA and IHS budgets to the necessary funding levels. The only way to achieve sustainable gains in education, health and public safety on our reservations is to direct OMB and Federal agencies to streamline the programming to Indian Country, especially for large land-based Tribes with high unemployment rates and poverty rates.

We would like to see funding streams consolidated, reporting requirements simplified and streamlined. Federal agencies, especially the BIA and IHS, should be directed to stop the creation of massive sub-agencies in cities and to start returning funding and decision-making authority to the regional and reservation level.

I would like to remind you today, until the United States returns to its contractual treaty obligations and provides non-competitive funding, improvements will continue to be limited and our problems will increase.

Tribal nations know what the problems are. We know what our needs are. And we can solve these problems. But it requires restoration of the base funding levels necessary to exercise self-determination and restoration of local control with line authority from reservation and agencies to D.C. and not top-down.

The written testimony describes the needs in the areas of education, the Tribal priority programs, housing, trust and national resources, economic development, welfare assistance, Indian health care, Office of Justice Services, law enforcement, Tribal courts and transportation.

I would like to again remind the Committee, as Tribal nations we know what our needs are, and we will continue to try and satisfy these needs with every resource available. Without the necessary funding levels for governmental services as obligated in our signed treaties, our needs will not be fully met.

On behalf of Sisseton Wahpeton and the Great Plains, I thank you for your time and consideration of our needs and recommendations. Thank you.

[The prepared statement of Mr. Shepherd follows:]

PREPARED STATEMENT OF HON. ROBERT SHEPHERD, CHAIRMAN, SISSETON WAHPETON OYATE; ON BEHALF OF THE GREAT PLAINS TRIBAL CHAIRMAN'S ASSOCIATION

Good afternoon, to the Distinguished Chairman, Senator Daniel Akaka and Vice-Chairman, Senator Barrasso and to our own South Dakota Senator Tim Johnson. I am honored to be here to represent testimony for our 16 Sovereign tribal nations from North Dakota, South Dakota and Nebraska who comprise the Great Plains Tribal Chairman's Association. (GPTCA) As Chairman of the Sisseton Wahpeton Oyate, I am pleased to share on views on various budget policy matters vital to our communities' and our Oyate/People.

The Great Plains Tribal Chairman's Association was formed to promote the common interests of the 16 sovereign tribes and nations of the Great Plains region. The Great Plains tribes have the largest geographical land base of any region in the United States. The total acreage within all Indian reservations and tribal lands in the Great Plains region is over 11,036,490 acres. Further, the Great Plains tribes hold over one-third of the country's trust allotments and tribal trust land tracts. The Great Plains tribes have a total population of over 189,000 people, second only to the Navajo Nation.

All of the member tribes of the GPTCA have all entered into solemn treaties with the United States. Many of our member tribes are constituent bands of the Great Sioux Nation, which entered the Fort Laramie Treaty of 1868, in this treaty and others, our tribes formed nation-to-nation alliances with the United States. In these treaties, the United States recognized and secured our native homelands and our preexisting rights of self-government and self-determination. The Tribes have fulfilled their treaty obligations, but the United States Government has not.

Today, we are proud of our Nations because they carry out true sovereignty and self-governance even if we are not adequately funded. As fully functioning units of government and Direct Service tribes, we operate our own schools, Colleges, law enforcement, courts, land and fire protection programs, Hospitals and governmental offices which require adequate, predictable funding which is available every day of the fiscal year. The Oglala Sioux Tribe is larger than the states of Connecticut and Rhode Island. No unit of government can, or should ever be, asked to operate any of these services on competitive grants. We therefore call upon the Congress to maintain the BIA and the IHS budgets to the level necessary to allow them to play their proper roles as the principal providers of funding for tribal governmental services. This will allow the Indian programs operated by agencies like DOJ, DOT and the Department of Energy to play the supplemental funding roles that they were intended to play when their Indian programs or Indian funding eligibility criteria were created.

The federal budgets provided to the Bureau of Indian Affairs and the Indian Health Service has never come close to meeting the actual needs of our Great Plains Tribes and their members. To make matters worse, over the course of the last 20 years, the BIA's and the IHS' already underfunded budgets have not kept pace with inflation, nor have they been increased to adequately address the increases in service populations. Instead of increasing the BIA's or the IHS' budget to address these problems, OMB and the Congress have chosen instead to encourage the Tribes to apply for competitive grants from federal agencies to make up for this serious shortfall. Most of these grants are short-term funding opportunities. Tribes are forced to design their programs around the grant requirements, instead of focusing on their actual needs. The overall result is half funded efforts difficult to administer, and fail to bring the results. Add to this the fact that tribes often have to wait until well into the second or third quarter of the fiscal year to learn if these grant dollars will be awarded, how much they will receive, and what those funds can be used for. No government should be asked to operate its core programs under these conditions.

The only way to achieve sustainable gains in education, health, and public safety on our Reservations is to eliminate the hodge-podge of federal grants and grant requirements and return to base funding for each Tribe. OMB and federal agencies should be directed to streamline their programming to Indian country; In particular this is necessary for those Regions with Large and Needy Tribes. The poverty that is reinforced by the larger society, economy and political system, permeates our tribal nations. This has *everything* to do with forces that are largely outside of the control of tribal governments or even individual families. Four of the most impoverished Counties in the United States are in the Great Plains region.

We would like to see funding streams consolidated, reporting requirements simplified and streamlined, and all federal agencies, especially the BIA and IHS should be directed to stop the creation of massive sub-agencies in cities, and to start returning funding and decisionmaking authority to the regional and reservation level.

Until the United States returns to its treaty obligations and provides base non-competitive funding to Tribal governments for education, health care, and public safety, improvements in these areas will continue to be limited. Tribal Nations know what our problems are. We know what our needs are. We can solve these problems, but it requires restoration of the base funding necessary to exercise self-determination and restoration of local control with line authority from the reservation/agency to D.C., rather than from the top down.

#### MORE SPECIFIC RECOMMENDATIONS:

##### **Education**

The Great Plains Region has approximately *one-third of all tribal schools in the United States and 10 of the Tribal Colleges*. Tribal education in the Great Plains region is at the center of this region's tribal Priorities and we are proud of our practice of Self-determination and Administering Tribal Schools.

—Develop a comprehensive national Indian education agenda to allow tribes to develop education systems from cradle to grave.

—Adequately Fund Tribal Education Departments as State Education Agencies under Department of Education funding sources and stop providing funds to BIE to act as the State Educational Agency for all tribes nationwide.

—Promote Tribal Education Department Development of Curriculum. Each Region is different, we are not all the same and the same is not equal.

—The GPTCA requests full consideration for cultural, political and economic differences.

—Fund the Schools before you fund BIE initiatives at the national level.

—Forward Funding under the TCSA and ESEA Should be Held at the Tribal Education Department Level and Reservation Level for investment and not within BIE.

—Enforce 25 U.S.C. § 2011 Government-to-Government “Meaningful” Consultation Requirements in Developing a New or revised MOU between the Department of Education and the Bureau of Indian Education.

—Fully Fund Tribal Colleges and Set Aside Funds from TRIO for tribal colleges.

—Halt Efforts to Apply NCLB to TCSA schools and permit immediate waivers of requirements.

The Tribally Controlled Schools Act provides for Tribes to operate schools and receive single grants for all purposes. Yet, the BIE funds school operations and maintenance at less than seventy percent of the need, all the while creating new administrative positions in Washington, D.C. and Albuquerque, New Mexico.

—Restore functions and authority of Indian Education to the Bureau of Indian Affairs and Indian Affairs, to allow improved cost effectiveness and in keeping with consolidation. This would improve communication at the local reservation level.

—Restore funding for Construction so all of our tribal schools can be repaired or replaced over the course of the next five years.

##### **Tribal Position on Process**

The Great Plains Treaty Tribes are opposed to ranking and prioritizing programs in Indian Country. All programs are basic life, critical necessities that, historically, have not been fully funded. All TPA programs are a priority and essential to the overall livelihood of the Tribal members and the operation of the Great Plains Tribal governments. However, as the budget process requires a program prioritization these needs have never been met.

It is illustrative that the 2012 and 2013 budget cuts will impact future budgets. We ask Congress to protect the budgets that are the very life for the First Nations,

especially our Large and Needy Tribes. As it stands, The President's commitment to Indian Country and the Bureau of Indian Affairs Mission Statement are not supported in any previous budgets and to support further budget cuts in the proposed 2013 budget is sending the wrong message to Indian Country.

BIA programs are being decreased or eliminated based on the assumption that other Federal departments or agencies are fulfilling those roles and responsibilities to Tribes and their membership. The Great Plains tribes have consistently opposed the reorganizing of line authority and funding away from the BIA.

#### **Tribal Priority Programs**

Tribal Priority Allocations (TPA) funding, base and non-base, Agency or Tribal, must be excluded from all reductions or any proposed freezes. The FY 2012 Administrative Savings Reduction, when applied to Agency TPA Programs, unfairly and disproportionately impacts Direct Service, Large Land Based Tribes and to a greater extent than Self-Governance Tribes.

Office of Justice Services programs need to be funded at an adequate funding level for all Tribal and agency operated programs (law enforcement, Tribal Court and corrections) to fully implement and comply with the 2009 Tribal Law and Order Act.

Transportation funding is crucial in order for Tribes and agencies to provide safe roads and bridges for all who utilize them. Funding is not at a level to support the Federal responsibility in this area.

#### **Housing**

Home Improvement Program (HIP). Increase the Federal Income Poverty guideline eligibility from 125 percent to 225 percent. HIP is very important to the GPTCA.

The 2012 need for the Large Land based Great Plains Tribes is \$228.5 million vs. the current minimal amount of \$25 million Bureau-wide.

Many of our houses are dilapidated and have Black Mold, creating health issues. Funding needs to be available for maintenance or replacement. Tribes have turned to Trailers which don't last, now we have "Trailer Graveyards".

In the Great Plains, The waiting list for a home is 5+ years with no guarantee even then.

The housing need is great, but it is impossible to capture an actual assessment of need as many will not come forward to be counted. Many are homeless so they reside with a family member who then fears eviction because of stringent federal guidelines.

#### **Trust and Natural Resources**

The protection of land and natural resources is critical to maintaining the Great Plains tribal land base. The Region has one of the largest land bases in Indian Country, and the most fractionated interests. Limited funding resources have not allowed the BIA to fulfill its trust obligation in protecting and enhancing these resources for the 1.7 million land owner and tribal interests. When OST was separated (Stove piped) services and authorities were reduced.

The Great Plains region has the responsibility for managing and protecting 6.1 million acres of Tribal and allotted lands for approximately 90,000 individual land owners. The annual value of grazing to the Indian landowners and Tribes is approximately \$18 million. \$14 million for farm pasture and farm leases. 25 CFR 166 requires the development of reservation-specific Agricultural Resource Management Plans (ARMP) and Range Unit-specific Conservation plans to protect the trust resources of the Indian Landowner.

Lease Compliance and Unresolved Rights funding must be restored. These activities continue to operate but at the expense of other TPA programs.

The GPTCA is in favor of a Sunset to OST, but believe some strides have been made so we support a merger of functions and authorities back to the Bureau of Indian Affairs. This will allow the Tribes to have essential and meaningful communication and service at the local agency and regional level rather than expending scarce dollars to go to Albq. or Washington DC. In the Great Plains we have a back log of land appraisals which is unacceptable given the large land base we manage. Some Tribes have been waiting from 3-5 years for an appraisal because functions are distributed among BIA, OST, Minerals and Energy and various offices and there is no hurry by staff.

#### **Economic Development**

The 2010 National Census data revealed the following South Dakota counties as four of the ten poorest in the nation: Ziebach (Cheyenne River Sioux Tribe), Todd (Rosebud Sioux Tribe), Shannon (Oglala Sioux Tribe), and Corson (Standing Rock

Sioux Tribe). It is an epidemic that needs Congressional attention to aid the Tribes in moving toward reducing poverty levels that plague the Great Plains Region. The average unemployment rate on reservations in the Great Plains Region is 77 percent. Economic Development is imperative to improving the quality of life for tribal members through job creation. The GPTCA requests a special category/consideration for Large and Needy Tribes

Tribes within the Great Plains Region lack the economic resources and infrastructure to jump start their economies and to fully implement the Department's initiatives for alternative and/or renewable energy projects. Establish a category for Large and Needy Tribes to concentrate services to the Treaty Tribes who have the greatest challenges.

Restore full funding to the Indian Guaranteed Loan Program of at least \$3 Million and return Credit to the Regional Offices.

Complete and Publish annually the Labor Force report and statistics, this will assist Tribes in obtaining formula based funding.

Restore all the programs, functions and authorities to Indian Affairs and the Bureau of Indian Affairs. The reorganization that created the super agency called Office of Indian Energy and Economic Development Office was not supported and the Tribes have been proven correct by the lack of service and sheer distance from the Reservations and ineffectiveness to work with the Tribes in successful economic development. This would restore funding and administrative authority back to the Regional Office and Agency level where the Tribes would have full access.

The Great Plains Tribes support the increased funding for contract support costs and opposes any cuts.

#### **Welfare Assistance**

*General Assistance* provides monetary grants to eligible clients. Of the 167,000 service population, approximately 44,205 people are served annually and provided with an average sole source income of \$218 per month. The GPTCA requests no cuts and full continuation of GA.

*Child Assistance* provides for the care of abandoned or neglected children placed in foster homes, private or group or residential homes designed to provide special care. Approximately 2,134 children have been placed in special care. Child Assistance had come under fire in the Great Plains and the GPTCA requests full compliance with the Indian Child Welfare Act.

The *Indigent Burial Program* provides burial grants to eligible members. The GPTCA requests full funding for Burial Assistance.

*Emergency Assistance* is provided directly to individuals who suffered extensive loss to homes and personal property due to fire, flood or other calamities and is used for essential needs of food, shelter and utilities. The GPTCA requests full funding for Emergency Assistance. In 2011, \$53,057 was expended to provide assistance to 198 victims at an average of \$268.

#### **Indian Healthcare**

The GPTCA appreciates the overall increases to IHS it is very positive and much appreciated.

Funding is still requested for Facilities Construction, Renovation and Maintenance. *The GPTCA requests Reauthorization for the Special Program for Indian Diabetes (SPID)*. The GPTCA supports the continuation of this program.

*The GPTCA supports and urges efforts to initiate new funding in order to make the promises a reality for IHCA Implementation.* Indian Health Care Improvement Act (IHCA) Amendments require DHHS and the Indian Health Service (IHS) support and funding.

The GPTCA supports improved funding for the following:

- VA—IHS Partnership Initiative
- Improved Billing and Collection.
- ND and SD state-wide CHS Designation (CHSDA).
- Long-term Care—new authority, funds to IHS.

*The GPTCA opposes Transfer of IHS.* There has been discussion of transferring our Indian Health Service agency budget and appropriation accounts to the DHHS-Labor-Education account. We are strongly opposed to this initiative. The GPTCA adopted a resolution on this matter and we share this with you today.

#### **Office of Justice Services**

Request full transparency from OJS with Improved Communication and Cooperation.

Transfer Line Authority and functions back to BIA. Again, service is far away and Tribes want service at the agency and regional level. This would improve the slow hiring process.

Fair and Equitable Funding between Direct Service and 638 Programs in all areas including equipment, vehicles, salaries, participating in workshops and training etc.

Congress should make housing available for Officers who reside in very rural areas.

Complete development and fully fund the Police Officer training center at UTTC.

#### **Law Enforcement**

Provide adequate funding for OJS at the local agency/Tribal level and not at the top.

There is an additional need of approximately \$15.3 million dollars in the Great Plains Region to support additional police officers to both the Bureau and Tribes; provide for Emergency Response Teams; Training; ensure each program has K-9 Teams; provide or update equipment and vehicles; and to conduct required community assessments for the 16 tribes in the Region.

With the opening of 4 new facilities in the Region, The Great Plains Tribes are requesting additional funding to support the operations, staffing and administration of these facilities.

\$4.7 million is expended annually for commercially contracted bed space for those tribes and agencies who do not have their own facilities. The new facilities when open will reduce the need for contracted bed space.

Historically, funding for O&M of Facilities has been constrained to 47 percent. The Great Plains Tribes are requesting 100 percent of O&M funding for not only the new facilities, but the current facilities.

#### **Tribal Courts**

The GPTCA requests Congress adequately fund the 2009 Tribal Law and Order Act; currently it is an unfunded mandate requiring tribes to implement additional services.

While we are pleased for the slight increase for Tribal Courts, it isn't enough. Increase Tribal Court Funding.

The tribes in the Great Plains Region would like to see funding for an Office and point-of-contact at the regional level to provide technical expertise in updating individual law and order codes, court processes and corrective action plans.

#### **Transportation**

Increase the Road Maintenance Funding to at least \$5.Million with consideration of Large and Needy tribes. In 1991, the Great Plains Road Maintenance program was funded at \$3.8 million. Twenty years later in 2011, the program was funded at \$3.6 million.

The *final* 2012 Great Plains Road Maintenance program is funded at \$3.4 million, \$200,000 less than 2011. The President's 2013 Budget is proposing a further Bureau-wide cut of \$320,000. This is not acceptable.

We estimate the Great Plains Region is funded at less than 15 percent of what is needed to provide required road maintenance.

Indian Reservation Road funding, must be limited for use on the interior Reservation Roads only. The Great Plains Tribal Chairman's Association supports the new manager amendments to the MAP 21 Highway bill, that allows for a more equitable distribution of Transportation funding to large land based tribes with more needs and higher inventories. But the funding in the legislation is barely maintaining current funding levels for the Indian Reservation Roads program and needs to be increased to at least \$500,000.00.

*Direct funding to large land-based tribes for emergency preparedness.* The Great Plains specifically requests the Administration to work with the Great Plains Tribes on developing a direct funding and technical assistance program for the Great Plains. This should include funding for emergency preparedness and long-term recovery plans for those Tribes who are in need of such plans.

Thank you for allowing me to present Testimony and I will answer any questions or if I can't I will furnish the response in writing to you later.

The CHAIRMAN. Thank you very much for your testimony, Mr. Chairman.

President Sharp, you mentioned that Tribes are ineligible for dozens of natural resource programs across Federal agencies and

are disproportionately underfunded per acre. How can we bring parity to Tribal natural resource funding?

Ms. SHARP. That is an excellent question. I thank you, Chairman.

There are a couple of things that come to mind. The first would be to look at the eligibility of Tribes to participate in the many opportunities throughout the Federal agencies to contend with natural resources areas. We estimate there are millions of dollars available to State and local governments to contend with natural resources that Tribes simply are not even eligible to compete.

So it seems if Tribes could be included in many other opportunities, it shouldn't matter where geographically. Good public policy across the United States means there aren't those types of barriers. We have some of the most pristine areas in our Tribal communities. But relative to State and local governments, our funding is incredibly short of where they are. So that would be one recommendation.

The other, it seems that when you look at national budgets of Tribal governments, the revenue stream that comes in from grants and the Federal Government is just one revenue stream. There are many others that, if Congress were to look at one, increasing private sector development within our Tribal communities, there are some initiatives in the SBA and others.

But by increasing a private sector, that allows us to increase our tax base. And those dollars would go to meet things like natural resources. Incentivizing private sector partnership with Tribal communities, if you look at the Low Income Housing tax credits, we are able to sell those, allowing corporations to defer their tax liability for 10 years, we are able to build housing infrastructure.

There is the Indian employment tax credit that is available, but it is effectively not working, because we don't have the infrastructure for businesses to locate to take advantage of those tax credits. If Tribes were able to sell the tax credit for Indian employment, the tax availability, we did the math at Quinault. If we could sell those just for the employees at our businesses, not counting our government, but our businesses, it would increase our national budget by 25 percent.

So there is a lot of tax policy, there is a lot of economic policy that is separate and apart from the Federal funding and appropriations that could increase our national treasuries. It is sovereignty-based, empower Tribal communities to tax, insulate us from the intrusion of State and local taxes. That is another drain on our economy. Many, many dollars are taken.

I live on the reservation. My house is on the reservation, but twice a year I write a tax check to the county. So those are just a few ideas of how we might be able to increase the parity for natural resources. Thank you.

The CHAIRMAN. Thank you very much, President Sharp.

Principal Chief Hicks, in your testimony you state that insufficient funding for contract support costs requires Tribes to divert millions of dollars from health care services to fixed administrative expenses. Please discuss the impact this has on USET member Tribes. And I am asking this because you three represent different

parts of our Country, the western, the Plains area and you of course the south and eastern areas as well.

Mr. HICKS. Yes, sir. Within any organization, of course, there are various costs. You have direct costs and indirect costs. Direct costs are what put the actual services on the ground. Those are the costs that pay for the surgeries or pay for the dental bills, et cetera.

But you also have to have the administrative staff to be able to support the IT systems, your human resource systems, the overall managing of the operation. So there has to be a balance there. And again, through defining where the priorities are, they are both priorities.

So in regard to the contract support costs, they are very important to the operation itself. We are a compact hospital. We took over our hospital a few years ago, so we actually manage it ourselves. So those support cost dollars are extremely important to us.

Of course, again, as I mentioned in my testimony, Eastern Band is required to supplement because we are only funded at about 60 percent of what our operation needs to service the 15,000 Eastern Band members that we have in the area. So again, it is extremely important. I hope that any restoration of these funds can be further defined in this budget process. Thank you.

The CHAIRMAN. Thank you, Principal Chief.

This next question is for the panel. One of the ways the Department of the Interior anticipates achieving savings in the President's budget, and has been discussed, is by streamlining services, reviewing personnel and functions at the region and agency level, based on the needs of the Tribes.

My question to the panel is, how would you like to see the Department involve Tribes in that effort? What do you think the Department should take into account during this review? Let me start by asking Chairman Shepherd to respond to that, and we will have President Sharp next.

Mr. SHEPHERD. Thank you. By streamlining the money, I think that would really get more direct services. The money would be utilized for the services. I know when you have different tiers of administrative offices, a lot of that money isn't being used for the purpose or its intended purposes. So the services that are on the ground down in the reservations or nations, all the money is tied up in administrative costs. So we are stuck getting the leftovers after they pay their wages or their administrative costs, we get the leftovers. And that is not enough. It is not enough for any of our regions.

And due consultation, I think, is the way to do it. And timing is important. Having the conversation before they make their decision is where we should be having the conversations. A lot of times we get involved when it is too late and we are not very effective when we are too late. So the timing is critical, when we get involved with the consultation. Thank you.

The CHAIRMAN. President Sharp?

Ms. SHARP. Thank you, Chairman.

I would agree with my colleague that direct consultation with Tribes on any proposal is absolutely vital. Many times when we have had to withstand across the board cuts, there are those unintended consequences that look good on paper. But if there is not

a connection between that decision and how it is going to be implemented on the ground within Indian Country, some of the impacts are devastating.

So as soon as those recommendations are formulated in real time consultation, direct engagement with Tribal leadership, with subject matter experts in health and all the different areas would be necessary.

To your second point of what criteria would we look at, it seems that you would look at various personnel. If those personnel, if their work involves processing, administrative functions that are time sensitive, those are some things that we have experienced in the past where personnel are cut, but that results in a six-month delay in getting an appraisal, those sorts of things.

So it seems that the criteria that we would look at is the function that that personnel, those administrative functions, procedures, how that directly relates to our implementation.

So I commend the Department for looking at streamlining in Indian Country. We have lived that, we have had to be very efficient and very lean in our operations. We all should be looking at how precious dollars could be used to directly benefit Indian people.

The CHAIRMAN. Thank you.

Principal Chief Hicks?

Mr. HICKS. I think first of all, each system within each Tribe, it is unique. I think that one of the most important things we could do, instead of talking first, and I am speaking from an agency perspective, I think listen first, and then we can get to the point where we need to be.

Streamlining is not simply cutting a percentage out of the budget and saying we fixed it. We have to understand what the processes are, we have to understand what the goal is. And of course, setting those priorities to make sure that the system is working to its best interest on behalf of each Tribe, and progressing the Tribe.

So I think as we look at this entire process, it obviously involves the parties and in this case the Tribes. But to make sure, again, that we listen first and not just dictate, here is how we are going to do things. And again, I have never believed in across the board cuts. But I do believe in, if you base your, in this case realignment and/or reevaluation, based on a need, then you can go places.

So that is my recommendation as it relates to streamlining.

The CHAIRMAN. This next question is to the entire panel again. Unless Congress acts, the Federal budget faces sequestration measures, which could mean across the board cuts in many Indian programs. Can you describe the impact this could have on your members? President Sharp?

Ms. SHARP. The impact would be devastating. Right now, the funding for basic services, as I mentioned, with our natural resources and law enforcement, basic governmental services are already in desperate need. For some areas, the level of cut that we are facing may seem to be a sliver. But for Indian Country, they are a potential gash in an already open wound. Our needs are desperate.

Going back to the answer I had for the first question, I would strongly encourage this Committee to seriously consider an overall financial fiscal strategy for Indian Country that includes those

things outside of Federal appropriations. I think there is an affirmative duty on this Congress, knowing that those cuts are imminent, knowing that those cuts are going to run deep into its trust obligations to Indian Tribes, there is a duty to look at alternative sources of increasing revenue into Tribal budgets, into our treasuries.

And there are many, many other creative ways, strategic ways to garner precious dollars and resources outside of Federal appropriations with the private sector, with small business development investment.

So to answer the question, it would be devastating. And that requires a positive duty to look at other approaches to funding our most basic services.

Mr. HICKS. Again, I go back to my comments about the principal foundation is, before you cut the programs, understand what the needs of the service are. Again, I don't believe in across the board cuts. I think that potentially they are detrimental, whether it is a large and/or small service that is being provided. I believe that as this budget process rolls out, again, that is my recommendation, let's look at the needs of the people. Native people's needs are just as important as anybody in this great United States.

As Tribal leaders, I know that we are going to fight for every dime that we can get. Cutting funding for programs that are already underfunded, it is just simply not the right solution. We are also survivors. As we have gone through our histories and with the land takings and again, not receiving our due share, we are going to survive. But we definitely need help with these services and programs. Thank you.

The CHAIRMAN. Thank you.

Mr. Chairman Shepherd?

Mr. SHEPHERD. Thank you.

I agree that it would be devastating to our Tribe, to our region, to Indian Country as a whole. Again, I agree that across the board cuts aren't the way to go.

Historically, Tribes have been underfunded, since the beginning. Also, in the beginning too, Tribes were predominantly self-sufficient, prior to everything that has been happening and us assimilating to the new way of life that we are attempting to still live. And to cut budgets even further, the treaties have been around for a long time, the trust responsibility has been around a long time. It has never been fully met financially.

The services is what it comes back to, the services from the government. We are trying to run our own Tribal governments. We have our own services. We provide the best we can. And when we start cutting the dollars, it is going to take away from the people. It will be devastating for us to continue to cut over the years.

Thank you.

The CHAIRMAN. I want to thank you very much for your patience here. I thank you very much for your responses to the questions and your testimony.

I want to again express mahalo, thank you, to the witnesses at today's hearing. The testimony we have heard today makes it evident that the President's budget request for Native programs reflects a concerted effort to fulfill the trust responsibility. However, we heard significant concerns about the potential impacts of

streamlining, sequestration and balancing fiscal responsibility with the trust responsibility.

I look forward to continuing these conversations with the Administration, Tribal leaders like you and Tribal organizations.

Finally, I would like to once again express the importance of hearing from all interested stakeholders on these matters. The hearing record will remain open for written testimony until two weeks from today.

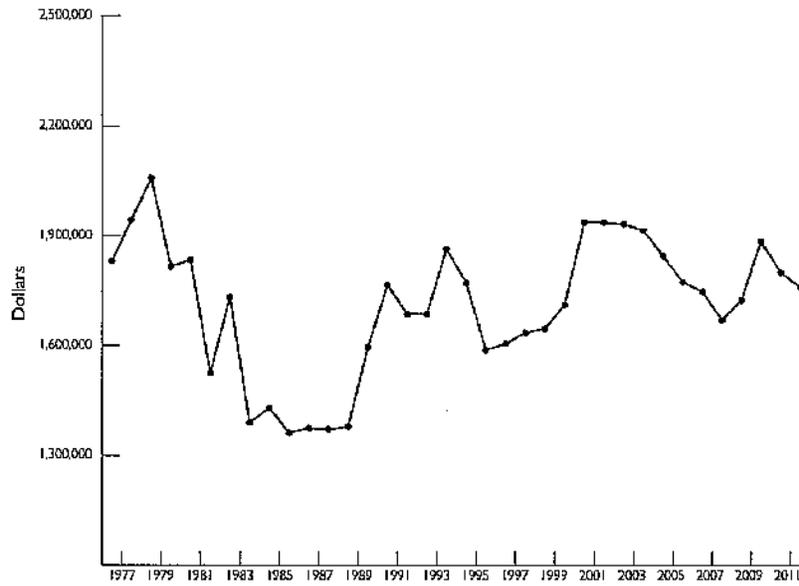
So mahalo, thank you very much, and thank you for being here to help us work together with you to help Indian Country and the indigenous people of our Country. Thank you very much. This hearing is adjourned.

[Whereupon, at 5:53 p.m., the Committee was adjourned.]

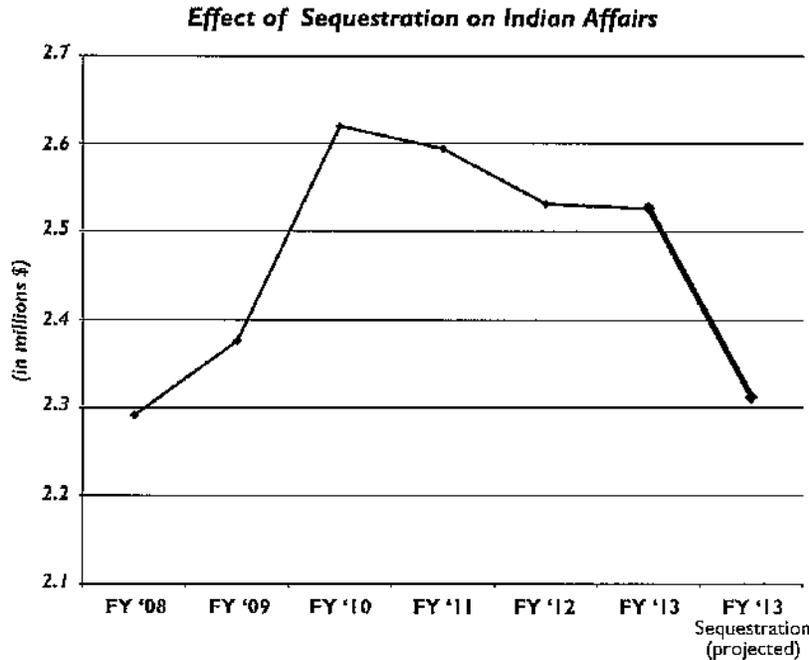


# A P P E N D I X

**Figure 2: BIA Funding, FY 1977-2012**  
*(in Constant 1996 Dollars)*



*Chart Courtesy of National Congress of American Indians*



PREPARED STATEMENT OF THE NATIONAL CONGRESS OF AMERICAN INDIANS

### Introduction

On behalf of the National Congress of American Indians, thank you for the opportunity to provide our views on tribal programs and initiatives proposed in the President's FY 2013 budget. Full funding of the Federal Government's trust, treaty and statutory obligations to tribes remains a bipartisan goal for Indian Country. Tribal leaders and NCAI urge investments in the programs that promote government efficiency and more program flexibility for tribes, in addition to low- and no-cost solutions for strengthening tribal and rural economies in this period of fiscal challenges. Congress must sustain funding for tribal self-determination, which is critical to the economic foundation of Indian Country. That fact that most tribal programs fall into the category of discretionary domestic funding has no bearing on the United States' trust responsibility to tribes and should not stop Congress from adequately funding them.

In preparation for the President's budget, some agencies have consulted with tribes about programs in the budget. Recommendations from Indian Country that were included in the President's FY 2013 proposal include increases for contract support costs, some natural resource and environmental protection programs, public safety initiatives, and contract health services. While the Administration's budget proposal maintains support for many critical programs, some cuts proposed represent significant setbacks to progress in Indian Country, such as for education construction.

NCAI looks forward to working with this Committee to ensure that the federal programs that fulfill the trust responsibilities to tribes receive bipartisan support in the appropriations process. Tribes look forward to contributing to the economic recovery, but to do so, tribes must assume their rightful place as full partners in the American family of governments. Given the historic disparity in resources for tribal governments compared to similarly situated governments, now is not the time to retreat from fulfilling the promises made to tribes.

### **Overarching Recommendations**

Indian Country recognizes the state of the economy, the pressures on government at all levels, and the related challenges for job seekers. Tribes have been doing more with less for generations. We take over responsibility to manage federal funds as seriously as we do the federal trust responsibility to provide them, and we propose the following general recommendations for the FY 2013 budget.

- 1) Continue to promote the successful and efficient initiatives in Indian Country that work, such as Self-Determination programs. Critical to implementing these policies are the Bureau of Indian Affairs (BIA) funding streams for Tribal Priority Allocations, Contract Support Costs at BIA and the Indian Health Service (IHS), and Tribal Grant Support Costs for tribal schools.
- 2) NCAI urges support for programs that maximize the federal tax dollar, such as the 477 program. In the administration of the 477 Act, tribes urge the continuation of funding through Indian Self-Determination and Education Assistance Act agreements and contracts and relief from the reporting obligations instituted by the Office of Management and Budget Circular A-133.
- 3) Tribes urge Congress to support legislation that will fully restore the Secretary of the Interior's authority to take land into trust for tribes.

NCAI has compiled recommendations on many specific programs and agencies that affect Indian Country, but, in general, NCAI urges Congress to at least hold Indian programs harmless in the FY 2013 appropriations process and exempted from across-the-board rescissions. NCAI also requests that the Indian Country FY 2013 Budget Request document be entered into the record.

Tribal programs have endured tremendous fluctuations in recent decades, making it difficult for tribes to achieve community stability. Each year, tribes should receive resources at least equal to those made to state and local governments so tribal governments may meet the critical needs of their citizens and the Federal Government may fulfill its sacred trust responsibility. As members of Congress begin considering the nation's federal budgetary priorities, the debate should acknowledge the solemn agreements made with Indian tribes that are backed by the Constitution.

### **Public Safety and Justice**

Although they have taken various forms, the public safety problems that plague tribal communities are not new. They are the result of decades of gross underfunding for tribal criminal justice systems, a painfully complex jurisdictional scheme, and a centuries-old failure by the Federal Government to fulfill its public safety obligations on American Indian and Alaska Native lands. In recent years, tribal leaders from across the nation have highlighted the shortcomings in the current justice system in numerous formal consultations, informal dialogues, conference calls, meetings, and Congressional hearings surrounding issues of public safety and justice in Indian Country. At every turn, they have emphasized that the current lack of resources for law enforcement on tribal lands poses a direct threat to Native citizens and the future of Indian Country. However, these words seem to have fallen on deaf ears. Even the 2010 passage of the Tribal Law & Order Act (TLOA) has not prompted Congress to invest more money in public safety on reservations. In fact, in the recently passed FY 2012 Consolidated and Further Continuing Appropriations Act, making appropriations for Agriculture, Commerce, Justice, Science (CJS) and Transportation-Housing and Urban Development, lawmakers not only removed the proposed 7 percent tribal set-aside from discretionary Office of Justice Programs (OJP) programs—which has previously been supported by both the House and Senate CJS Committees—but they slashed funding for tribal justice programs across the board.

#### *Department of Justice*

The President's FY 2013 Budget requests approximately \$345 million for public safety initiatives in Indian Country, with a total of \$156.8 million set aside for tribal grant programs within the Department of Justice (DOJ). While this is a significant overall decrease compared to the President's FY 2012 DOJ request, the tribal grant program funding numbers are still more than the approximate \$123.9 million FY 2012 enacted level, demonstrating the Administration's continued commitment to improving the criminal justice system on tribal lands.

Similar to last year's request, the Department again proposes bill language for a 7 percent tribal set-aside from all discretionary Office of Justice Programs (OJP) programs to address Indian country public safety and tribal criminal justice needs. Under the FY 2013 request, the 7 percent set-aside totals \$81,375,000—more than a \$20 million decrease from last year's request. Although the details of how these funds will be administered are yet to be determined, the goal is to provide a more

flexible grant structure for tribes. The Department proposes to eliminate bill language contained in prior years' Appropriations Acts that outlined specific funding amounts for traditional tribal justice programs—such as tribal prison construction, tribal courts initiative, tribal alcohol and substance abuse reduction assistance, and tribal youth. NCAI supports the creation of a 7 percent tribal set-aside of OJP programs, but at the same time urges that those funds are allocated in an equitable manner and that each formerly separate program area receives funding at or above FY2010 funding levels, including tribal courts and jails construction, legal assistance, juvenile delinquency prevention, and substance abuse prevention.

Approximately \$40.5 million is requested for tribal initiatives within the Office of Violence Against Women (OVW) and aimed at addressing the high victimization rates of American Indian and Alaska Native women for the crimes of domestic violence, sexual assault, dating violence, and stalking on tribal lands. Of these funds, \$35,320,000 (a \$50,000 increase over FY 2012 enacted levels) is requested for disbursement through the VAWA Tribal Government Grants Program, while \$3,605,000 would be funneled to tribal coalitions through the VAWA Tribal Coalitions Grants Program. Also within these OVW funds, the President has requested that \$500,000 be available for an Indian Country Sexual Assault Clearinghouse that will offer a onestop shop for tribes to request free on-site training and technical assistance. The FY 2013 budget request also sustains funding for Analysis and Research on Violence Against Indian Women at \$1 million.

Unfortunately, the FY 2013 budget request for tribes under the Community Oriented Policing Services (COPS) program to fund tribal law enforcement expenses is funded at \$20 million, the same as the FY 2012 enacted amount but much lower than it was just two years ago. Moreover, the \$42 million that the President requested for tribes under the COPS Hiring Program in FY 2012 has been reduced to just \$15 million for FY 2013. These funds are critical for the hiring and retention of tribal law enforcement officers.

While the DOJ FY 2013 Budget Request may total less than last year's request, it still provides tribes with more flexibility in how they spend their DOJ grant dollars. NCAI commends the Justice Department's continued commitment to tribal self-determination and the improved administration of justice on Indian lands.

#### *Public Safety Resources at the Department of Interior*

NCAI also supports the Department of Interior's Protecting Indian Country Initiative and the Priority Goal to reduce violent crime in Indian communities. Last year, the Department of the Interior launched the Safe Indian Communities Initiative, a two-year program that included targeted community policing on four reservations, and the program has achieved successful and encouraging results. Since its inception, there has been a 35 percent overall decrease in violent crime across the four tribal communities. With an initial target of reducing violent crime by at least 5 percent, the initiative far exceeded this goal, achieving a 68 percent decrease in violent crime at the Mescalero Reservation in New Mexico, a 40 percent reduction at Rocky Boy in Montana, and a 27 percent reduction in violent crime at Standing Rock in North and South Dakota. The successful program is now being expanded to two additional reservations: the Rosebud Sioux Reservation in South Dakota and the San Carlos Apache Reservation in Arizona. Indian Country would like to see it expanded even further—to reach even more tribes—and we would like to see Congress appropriate adequate funding to ensure the Initiative's continued success. This Initiative has been a proven success, and these are the types of efforts that can make a real difference on the ground level, provided there is funding available to pursue them.

Law enforcement infrastructure, including basic police protection and tribal courts on tribal lands, is a fundamental function of government, and if they are not provided at the highest quality, no one will be willing to invest in tribal economies. Tribes have some of the most valuable resources in the nation— natural and human—and tribal lands are prime locations for new business ventures and economic development. Yet, issues of perceived safety on the reservation continue to hinder successful growth of tribal economies. Increased and targeted funding in tribal law enforcement and tribal court development will not only have a huge impact on safety in tribal communities, it will help attract new business to tribal lands and will ensure that tribal law enforcement officers, emergency responders, and justice personnel are able to find work in the communities that most need their services.

#### **Department of Homeland Security**

Tribes have daunting responsibilities to protect their lands and people from homeland security threats and initiate protective measures similar to the states. Although the states have received billions of federal program dollars, tribes have only

in the last 4 years made progress in accessing bare minimum grants. The Department of Homeland Security (CHS) Tribal Homeland Security Grant Program (THSGP) administered by the Federal Emergency Management Agency (FEMA) was created to provide tribal direct funding to implement preparedness initiatives to help strengthen the nation against risk associated with potential terrorist attacks and other hazards.

The enacted FY 2012 budget for the DHS Tribal Homeland Security Grant Program (THSGP) was cut 40 percent and the level of funding proposed for FY 2013 THSGP is unclear as this grant is proposed to be part of a National Preparedness Grant Program (NPGP). NCAI also is concerned as the NPGP was developed without tribal consultation and will use revised grant criteria which is more favorable to states. The NCAI recommends that no further action be taken on the proposed FY 2013 National Preparedness Grant Strategy until DHS has provided, under Executive Order 13175, outreach and consultation with tribal governments.

The FY 2013 budget proposes to eradicate the THSGP and there are no other grants that specifically acknowledge tribal government eligibility in any DHS programs. Previous grant programs for which tribes have been eligible will be absorbed into the National Preparedness Grant Program (NPGP) and contain state-favored criteria and a state-managed process. THSGP grant criteria is more focused on Threat Hazard Identification Risk Assessment (THIRA) and hazard specific assessments on a regional basis. The administration's FY 2013 budget strategy and the accompanying grant eligibility criteria was developed in consultation with state governors and state emergency managers to the exclusion of tribal leaders and tribal emergency managers. The proposed changes are an affront to tribal sovereignty and even more detrimental to tribes as the states also will be administering the grants.

FEMA will base funding allocations on prioritized core capabilities. The tribes have not had the same opportunities to increase homeland security capacity-building that the states have had through several years of DHS funding to increase and enhance their homeland security program infrastructure. Another portion of DHS funding that will be competitive states that all jurisdictions applying for these funds must affirm membership in the Emergency Management Assistance Compacts (EMAC). Few tribes are signatories of these compacts created by and primarily for states. Although forming EMAC-like collaborative partnerships are beneficial in providing resources and assistance which governments can use during emergencies the majority of tribes have yet to enter into these compacts for various reasons related to capacity, jurisdiction and sovereignty.

## **Human Services**

### *Indian Health Service*

The President's budget request demonstrates the Administration's ongoing commitment to Indian Country—and in the case of health care—the recognition of the trust responsibility for providing health care in perpetuity to all American Indian and Alaska Native people. The increase of \$116 million in the Indian Health Service (IHS) budget request was a confirmation of that commitment.

Tribal leaders annually, through the National IHS Tribal Budget Formulation Workgroup, provide IHS with tribal leader priorities for the upcoming Fiscal Year. We applaud the Administration for including targeted funding increases that have long been a priority for the Workgroup. For example:

- \$20 million increase in Contract Health Services. Contract Health Services funds are necessary to purchase health care services where direct IHS and tribal health care is non-existent or unavailable and supplemental funds are needed to provide comprehensive care. IHS estimates that this increase will provide an additional 848 inpatient admissions, 31,705 outpatient visits, and 1,116 one-way transportation services.
- \$49 million increase in Staffing and Operating Costs for New Facilities. This request will fund the staffing and operating costs for six newly constructed health centers scheduled to open in FY 2013, including three Joint Venture projects. In addition, the request will complete the funding requirements to staff and operate two Joint Venture projects scheduled to open in FY 2012.
- \$5 million increase in Contract Support Costs. The increase will be applied to the Contract Support Costs shortfall associated with ongoing contracts and compacts with tribes and tribal organizations under the Indian Self Determination and Educational Assistance Act. A recent estimate of the shortfall for Contract Support Costs at IHS is between \$70 and 80 million. Tribes and NCAI continue to urge the agency to provide the full amount required to pay these costs.

While these increases are much needed, we must be clear that the IHS budget remains woefully short of providing full funding to the IHS system; and only full funding will ensure that parity is achieved in our healthcare system. Providing funding increases that takes into account population growth and inflation so that current services can still be provided is an important budget principle.

Tribal leaders provided Congress and the Administration a blueprint to bring parity to Indian people. The Indian Health Care Improvement Act (IHCA) includes programs and services designed to bring the IHS into the 21st century. However, as we all know, authorization only creates the program, appropriations are needed to fulfill its promise. Currently, there are twentythree unfunded provisions in the IHCA. Provisions that will provide opportunities for tribes to build tribal capacity, infrastructure, and most importantly—access to health care services.

#### *Bureau of Indian Education*

The FY 2013 budget request for the Construction program is a reduction of \$17.7 million below FY 2012. The request cuts \$17.8 million, eliminating new school construction funding. Indian Affairs will focus on improving existing school facilities as part of the Department's strategic approach to not fund new construction in FY 2013. The total FY 2013 request for Education Construction is \$52.9 million. NCAI urges this Committee to help us restore funding for new school construction.

All students in America deserve a safe, secure, and culturally appropriate environment in which to attend school. As cited in the draft No Child Left Behind School Facilities and Construction Negotiated Rulemaking Committee Report, numerous research studies have noted the link between inadequate facility conditions and poor performance by students and teachers. The Report also underscored the fact that the quality of the school environment impacts student behavior, test scores, and teacher retention, among other issues.

As of December 31, 2009, an estimated \$1.34 billion was needed to bring 64 schools ranked in "poor" condition, meaning in significant need of repair, up to "fair" condition. Continued inadequate support for school facilities will cause the unmet need for construction and repair funds to balloon. Equally disconcerting is that the FY 2013 budget directives could result in the continued elimination of funding for replacement school and replacement facilities. Delaying the replacement and repair of existing facilities not only jeopardizes student and staff safety, but also increases the amount of school funds that must be diverted to emergency repairs and other facilities maintenance-accounts which are also extremely underfunded. NCAI urges this Committee to help us restore funding for new school construction.

#### **Natural Resources**

The vitality and sustainability of natural resources is integral to the health of American Indian and Alaska Native peoples, communities, cultures, and economies. It also has demonstrable positive impacts on surrounding communities. The ecological practices tribal peoples have cultivated for millennia are inherently sustainable and practical.

#### *Environmental Protection Agency*

Although the Environmental Protection Agency's (EPA) FY 2013 budget decreased approximately \$105 million overall from FY 2012, much of the tribal set asides received increased funding. Recognizing tribes and states as the primary implementers of environmental programs the EPA continued funding its State and Tribal Assistance Grants program, which accounts for 40 percent of the EPA's budget request and is the largest percentage of the EPA's budget request. Tribes received an increase of approximately \$29 million over FY 2012 appropriations to the Tribal General Assistance Program. These additional funds will assist tribes in capacity building and promote protections for the environment and human health. NCAI strongly supports the increase proposed for the Tribal General Assistance Program.

#### *Bureau of Indian Affairs, Natural Resources*

Tribes have voiced support for increased funding for natural resources programs in the Bureau of Indian Affairs through the Tribal Interior Budget Council, which provides input to the Department of Interior on tribal budget concerns. The President's FY 2013 budget includes some of the recommendations for natural resources. Under trust land management, the FY 2013 budget would provide increases in Trust Natural Resources of \$3.5 million for the Rights Protection Implementation program and \$2 million for the Tribal Management and Development program to support fishing, hunting, and gathering rights on and off reservations. The budget request would provide program increases of \$1 million for the Forestry program and \$500,000 for the Invasive Species program. An increase of \$800,000 supports greater BIA and tribal participation in the Landscape Conservation Cooperatives, for a total

of \$1 million. NCAI urges Congress to retain these proposed increases in the final FY 2013 appropriations bill.

#### **Supporting Tribal Governments**

The best illustrations of tribal innovation and efficiency came with the passage of the Indian Self-Determination and Education Assistance Act (Pub. L. 93-638) in 1975, which unleashed the power of tribal control and revolutionized the delivery of Indian services. Program flexibility has allowed tribes to determine internal priorities, redesign programs, and reallocate financial resources to effectively and efficiently address the needs of their respective communities. In this time of a constrained federal budget, NCAI notes that many recommendations from tribes during tribal budget consultations have been considered in the FY 2013 President's budget. The President's budget does not provide the amounts required to meet the full need for Indian programs, but the proposal does address important funding areas for tribal governments, outlined below.

##### *Bureau of Indian Affairs*

The FY 2013 President's budget includes \$2.5 billion in current appropriations for Indian Affairs, which is \$4.6 million or 0.2 percent below the FY 2012 enacted level. The budget proposes a total of \$897.4 million in Tribal Priority Allocations. Critical to implementing the Indian Self-Determination policy is the Bureau of Indian Affairs (BIA) funding streams for Tribal Priority Allocations, Contract Support Costs at BIA, and Tribal Grant Support Costs for tribal schools. NCAI supports the programmatic increases in Indian Affairs, which follow the recommendations from tribes. However, NCAI would note that the President's budget includes rather large reductions due to streamlining measures in the BIA. These reductions include \$19.7 million in streamlining measures and \$13.8 million in administrative savings. Although tribes appreciate that the Administration is proposing increases to programs, NCAI would urge caution when cutting so deeply into BIA functions—administrative and streamlining reductions that are larger than proposed for most other bureaus and agencies. NCAI would encourage the BIA to consult with tribes on the how the proposed streamlining and administrative reductions would impact the delivery and operation of Indian programs.

#### **Office of Special Trustee for American Indians**

The FY 2013 budget request for the Office of Special Trustee (OST) focuses on continuing efforts in trust management reform, oversight, daily operations, and historical accounting. The request for OST totals \$146 million and reflects a \$6.1 million decrease from the FY 2012 enacted.

In past years tribal leadership has been critical of the OST, largely because of the reorganization of traditional Bureau of Indian Affairs (BIA) functions into a separate bureaucracy. At the same time, tribes have seen improvements, particularly in the accounting for trust funds. In general, tribes have supported a plan to sunset the OST, reintegrate its functions with BIA under the high level guidance of a Deputy Secretary for Indian Affairs, the creation of an independent oversight function, and have urged that more resources should be focused at the reservation level to support tribal resource management.

Last week, the new National Commission on Indian Trust Administration and Reform held its first meeting and began its work. At the same time, we began to see some fruit bear from the long efforts at historical accounting, with an announcement that more than 50 tribes have received settlement offers, and offers have been accepted by the Confederated Tribes of the Colville Reservation, the Fort Peck Tribes, and previously the Osage Nation. We expect that more settlements will be finalized in the coming weeks and months.

Given the progress on tribal trust settlements and the newly started work of the Commission, we would strongly encourage Congress to continue its funding of OST at the requested levels. We would also urge Congress to provide additional funds for appraisals because of the significant delays caused by a lack of appraisal services. In addition, there are concerns that the probate caseload is growing and additional resources may be needed.

In the future, we hope to see a diminishing need for historical accounting as tribal trust fund cases are resolved and the Cobell settlement is put to rest. We are optimistic that the Commission will develop a plan for the future of OST that focuses on reservation management of trust resources and will continue to improve the administration of Indian trust land and trust funds.

## **Economic Development**

### *Department of Energy*

The Department of Energy overall FY 2013 budget request of \$27.2 billion is a small increase over the FY 2012 enacted level. Part of this increase requires a significant restructuring of programs to streamline and cut those that are not working or no longer needed. For tribally specific programs, the Department of Energy requested a 25.3 percent increase for the Office of Indian Energy Policy and Programs. This increase brings the OIEPP closer to the statutory maximum of \$20 million, a request included in the NCAI FY 2013 Tribal Budget Request document. The Tribal Energy Program request included a 30 percent cut and will seek to develop tools for leveraging existing public and private financing for deployment of tribal energy projects.

### *Indian Guaranteed Loan Program*

The FY 2013 proposed budget would provide \$5 million for the Indian Guaranteed Loan program, a reduction of \$2.1 million from the 2012 enacted level. The Department of Interior's Office of Indian Energy and Economic Development (OIEED) Division of Capital Investment oversees the Indian Loan Guarantee Program that is the only federal guarantee program that enables eligible borrowers to obtain conventional lender financing to develop Native businesses and eligible construction, while also enabling other companies to obtain supplemental surety bond guarantees. In the last several years, significant tightening of the credit markets made loans more difficult to obtain, reducing demand for loan guarantees. As lending conditions improve, the revolving credit facility of the OIEED Loan Guarantee Program can greatly assist Native borrowers seeking guarantees for lines of credit for: working capital, payrolls for hiring new employees, and assurances sufficient for sureties to provide performance bonds to tribal- and other Native-owned contractors. The OIEED's Loan Guarantee Program is the most appropriate and urgently needed source of financing for business, energy, and other economic development in Indian Country. With the promises of a broadband-enabled economy in Indian Country looming on the horizon, an expanded investment in the OIEED Loan Guarantee Program would enable operating businesses to build their technological capacity as well as to provide seed financing for new businesses to begin operations. NCAI encourages Congress to restore funding for the Indian Guaranteed Loan Program.

### *Transportation*

The Indian Reservation Roads (IRR) system comprises over 140,000 miles of public roads with multiple owners, including the Bureau of Indian Affairs, Indian tribes, states and counties. Indian Reservation Roads are the most underdeveloped road network in the nation—yet this is the primary transportation system for all residents of and visitors to American Indian and Alaska Native communities. Over 66 percent of the system is unimproved earth and gravel. Approximately 24 percent of IRR bridges are classified as deficient. These conditions make it very difficult for residents of tribal communities to travel to hospitals, stores, schools, and employment centers.

The Department of Transportation (DOT) President's budget request for FY 2013 envisions critical investments in infrastructure that are vital to the nation's economic success. Included in the budget is a new six-year \$476 billion surface transportation reauthorization proposal to improve the nation's transportation infrastructure. The President's budget also seeks to fully pay for the transportation investment through gas tax and other revenues and from the savings from the Overseas Contingency Operation reductions, a decrease of military operations.

Additional changes included in the DOT's FY 2013 budget is the consolidation of 55 surface transportation programs within the Federal Highway Administration to five core programs: (1) Highway Safety Improvement Program; (2) National Highway Program; (3) Livable Communities Program; (4) Federal Allocation Program; and (5) Research, Technology and Education Program. A major change has also been to rename the Indian Reservation Roads Program (IRR) and has been changed to the Tribal Transportation Program (TTP), this will encompass the former IRR Bridge Program, planning, and a new safety program for TTP roads. The amount requested for FY 2013 for Tribal Transportation Program is \$600 million with gradual step increases for each fiscal year up to \$785 million for FY 2018.

NCAI supports the increase to \$600 million for the Tribal Transportation Program, however NCAI would want to ensure that the consolidation of these TTP funds for tribal transportation infrastructure adequately addresses construction and maintenance needs for roads and bridges.

NCAI also urges an increase for the BIA roads maintenance program in FY 2013, which services 29,000 miles of Indian Affairs-owned roads. As of 2011, the backlog

in deferred maintenance was approximated to be \$285 million, yet the funding level for BIA roads maintenance has been at about \$25 million for the last ten years.

### **Conclusion**

Thank you for inviting NCAI to share our views with you today and thank you for making Indian nations a priority. We look forward to working with the Committee to continue to build upon our successes. Tribal leaders urge Congress to uphold its solemn promises to tribes, even as policymakers seek to reduce the deficit through spending reductions and revenue generation. The obligations to tribal citizens funded in the federal budget are the result of treaties negotiated and agreements made between tribes and the United States in exchange for land and resources, known as the trust responsibility. The fulfillment of this trust responsibility is a solemn historic and legal duty.

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## PREPARED STATEMENT OF THE CHEROKEE NATION

### **Introduction**

Chairman Akaka, Vice Chairman Barrasso and members of the Committee, Cherokee Nation would like to submit this testimony for the record on The President's Fiscal Year 2013 Budget for Native Programs. The Nation requests that in setting FY 2013 Bureau of Indian Affairs (BIA) and Indian Health Services (IHS) budget priorities, the Federal Government uphold its Trust Responsibility to tribes.

Cherokee Nation was one of the first tribes to enter into a treaty with the United States. In that tradition, the Cherokee Nation executed a self-determination contract in 1990 under Title III of the Indian Self-Determination and Education Assistance Act (ISDEA), which gave the tribe more authority to administer its programs. In just two decades, Cherokee Nation has taken over the administration of several BIA and IHS programs, including health care, education, and law enforcement. ISDEA is a powerful mechanism that provides tribes with the opportunity to control and administer essential governmental services and engage in local economic and resource development.

Cherokee Nation is the largest employer in northeastern Oklahoma and has an economic impact of more than \$1.06 billion on the State's output level, including \$401 million in State income impacts, and supports 13,527 jobs in a predominantly under-developed, rural region of Oklahoma. While 3,250 people are employed in the Nation's government, an ever-increasing number of people are employed in the Nation's diverse portfolio of businesses, including hospitality, healthcare, aerospace, and technology sectors.

The combined revenue from the Tribe's business operations helps fund essential government services while offering a foundation to expand and diversify economic development and create job growth in Oklahoma. Therefore, adequate funding for both IHS and BIA is vital to maintain and increase our recent progress and strength.

### **Fixed Costs—Contract Support Costs (CSC)**

One of the most important budgetary issues facing Indian Country for the next fiscal year is the funding of contract support by BIA and IHS. In Indian Country, every dollar lost in contract support costs is one dollar subtracted from health care, education, law enforcement and other critical governmental services. The contract support cost deficiency has caused severe financial strains on Cherokee Nation's programs and facilities.

Because CSCs are fixed costs that a contractor must incur, tribes are required to either (1) reduce funds budgeted for critical healthcare, education and other services under contract to cover the shortfall; (2) divert tribal funds to subsidize the federal contract (when such tribal funds are available); or (3) use a combination of these two approaches. For every \$1 million that the Cherokee Nation must divert from direct patient care to cover contract support costs, the Cherokee Nation health system must forego 5,800 patient visits.

While the President's FY 2013 Budget request for IHS is \$4.42 billion—an increase of \$115.9 million over the FY 2012 enacted level—IHS sees only a very modest \$5 million increase in IHS funding for contract support. The Cherokee Nation appreciates the increase, but it is less than a one percent increase over the FY 2012 enacted level. At this level, the IHS contract support cost shortfall is estimated to increase to approximately \$100 million in FY 2013. This shortfall will substantially impact Cherokee Nation, which, like other tribes across the United States, operates replacement or joint venture facilities throughout our tribal jurisdiction.

The projected CSC shortfall will force the Cherokee Nation to divert investments in job creation and other important programs to avoid decreasing primary care, dental treatment, and pharmaceutical coverage. As long as the Federal Government maintains the status quo of inadequate funding, the United States is failing in its partnership with tribes and is ignoring its Trust Responsibility.

Fortunately, BIA does not have the same CSC shortfall crisis. Cherokee Nation appreciates the President's Budget Proposal because it increases Indian self-determination funds by \$8.8 million. This increase must be protected during the appropriations process to avoid the same problems IHS has with CSC funding and BIA should be seen as a model for IHS.

We appreciate past and current efforts to reduce shortfalls, but it is unacceptable for sequestration or domestic deficit reduction efforts to single out tribes by cutting tribally-administered health and law enforcement programs. The Federal Government has a moral and legal obligation to fund these essential governmental services. The trust responsibility is not, and should not be viewed as, discretionary spending.

#### **Indian Health Service (IHS)**

Under a Self-Governance compact with the Department of Health and Human Services, the Cherokee Nation constructs and maintains waterlines and improves sanitary services throughout the region. Furthermore, in conjunction with IHS contract support cost dollars, the Tribe operates a sophisticated network of eight rural outpatient health centers that provide Native People with primary medical care, dental service, optometry, radiology, mammography, behavioral health promotion and disease prevention, and a public health nursing program.

In addition to these services, the Cherokee Nation operates WW Hastings Indian Hospital in Tahlequah, Oklahoma. Hastings is a 60-bed facility offering outpatient and ancillary services with over 300,000 outpatient visits each year and more than 335,000 prescriptions filled annually. Adequate funding is required to continue this successful partnership in fulfillment of the United States' trust obligations and IHS must be exempt from future reductions during appropriations and the sequestration process as prescribed in the Budget Control Act of 2011.

#### **Expanding the Joint Venture Program**

The IHS Joint Venture program demonstrates the shared commitment of Tribal Nations and IHS. This program provides additional health facilities within the Indian health system and the staff necessary to support the facilities across Indian Country. This program has been effective in the Oklahoma City Area as well as providing staff at our clinics across eastern Oklahoma. Cherokee Nation requests the Joint Venture program be funded at an adequate level, including CSC funds.

#### **Indian Health Care Improvement Fund (IHCIF)**

In addition to the well-documented disparate funding between IHS and other federally-funded health programs, funds among the various IHS areas are distributed inequitably. In order to address such inequities, the IHCIF was created to achieve parity among the IHS Areas. Over the years, tribes have recommended the Federal Government implement a time-limited plan to bring all IHS Operating Units to the 80 percent level. To achieve parity, a \$1 billion investment will be required over a four-year period.

#### **Substance Abuse and Mental Health Services Administration (SAMHSA) Block Grant Funds**

The President's FY 2013 Budget request for SAMHSA is \$3.4 billion, a \$141.9 million decrease from the FY 2012 Enacted Level. Each state receives block grant (formula) funds from SAMHSA for providing behavioral health services to all residents within the state. However, when an American Indian is in need of behavioral health services, he typically seeks care through an IHS or tribally-operated facility, as opposed to a state agency or state-operated facility. As with competitive and discretionary funds, increasing and giving the Cherokee Nation access to this type of funding would expand our opportunity to improve our behavioral health services and better meet the system's current demand.

#### **Bureau of Indian Affairs (BIA)**

Cherokee Nation compacts with the Department of Interior to administer a wide array of federal programs serving American Indians. Full federal funding is crucial for continued administration of social services, child wellness programs, child abuse services, adult and higher education, housing improvement, law enforcement service, road and bridge construction, planning and maintenance, forestry and real estate programs, and Johnson O'Malley education programs.

### **Indian Guaranteed Loan Program**

The Indian Guaranteed Loan Program, established under the Indian Financing Act of 1974, helps Cherokees and other Native Americans access capital by guaranteeing and insuring loans to promote economic development throughout Indian Country. The program leverages appropriated monies by a ratio of 13 to 1. However, in the upcoming budget, the program sees a \$2.1 million reduction to \$5 million because it is purportedly duplicative of programs in other agencies. However, these programs do not replace the Guaranteed Loan Program. Cherokee Nation requests this highly-successful program be fully funded so tribes may access loans when attempting to increase their economic livelihood in often economic-depressed regions.

### **Tribal Priority Allocations (TPA)**

We join our fellow Self-Governance Tribes in continuing to request funding increases for the fundamental services provided as Tribal Priority Allocations. Of the 566 federally-recognized Tribes, 235 Tribes manage their own affairs under Self-Governance agreements with the BIA. Although these Tribes account for 42 percent of the federally-recognized tribes, they received roughly only 15 percent of the BIA budget, which bears the responsibility for providing services to all federally-recognized Tribes. Collectively, most of the varied programs fall under the broad category of "Tribal Priority Allocations."

The President's FY 2013 budget includes \$2.5 billion for BIA, which is \$4.6 million or 0.2 percent below the FY 2012 enacted level. While this is basically level with FY 2012's Budget, any decrease strains tribal governments. Further, the budget proposes a total of \$897.4 million in Tribal Priority Allocations and these funds must be protected as the budget process proceeds.

### **Sequoyah Schools and the TED Pilot Project**

In 1985, Cherokee Nation gained control of Sequoyah Schools, a former, underperforming BIA boarding school. After years of tribal control, Sequoyah is now regionally and state accredited, consistently meets Adequate Yearly Progress goals and is flourishing. While Sequoyah receives funding from Bureau of Indian Education grants, the Cherokee Nation also utilizes tribal funding from motor vehicle tag sales to fund the School.

The Campus now covers over 90 acres and houses more than 400 students in grades 7–12 representing 42 Tribes. Cherokee Nation and other tribes better understand how to educate our children and provide cultural curricula that revitalizes and protects language and tribal history. The School also creates an academic environment that mirrors college preparatory schools by utilizing an advanced curriculum and using data collection to track student progress and School performance, which allows the administrators to quickly address any deficiencies or problems that develop.

Therefore, Cherokee Nation is very appreciative of the \$2 million dollars appropriated for the Tribal Education Departments (TEDs) Pilot Project in the FY 2012 Department of Education Budget. Funding for TEDs is also authorized in No Child Left Behind Act for DOI, but has not been funded. This pilot project will increase the role of TEDs in education and will help tribes provide an equitable learning environment for our children. Therefore, we request \$2 million in FY 2013 for the TED pilot project.

The pilot project will allow tribes and the Federal Government to utilize a method of funding that has been demonstrated to increase efficiency and self-determination in other areas. The pilot project allows TEDs to receive funding as authorized in the Elementary and Secondary Education Act (ESEA) for education programs and authorizes the TED to directly administer such ESEA programs in a similar fashion as the Cherokee Nation receives and administers funding for IHS and BIA self-governance programs. The Nation respectfully requests this Subcommittee work with the Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies to ensure the pilot project is funded and that the Appropriations Act language directs the Department of Interior and Education to directly provide ESEA funding to the tribes chosen to participate in the pilot project.

### **Conclusion**

Cherokee Nation is committed to providing federal services and direct, local-level programs, including job creation, education, health and law enforcement services, in a time when economic issues and desired deficit reduction hinder federal attempts to accomplish the same. The Federal Government's current fiscal situation does not negate its trust responsibility to Cherokee Nation and Indian Country.

PREPARED STATEMENT OF CHERYL A. CAUSLEY, CHAIRWOMAN, NATIONAL AMERICAN INDIAN HOUSING COUNCIL

**Introduction**

Mr. Chairman, Mr. Vice Chairman and members of the Committee. I am submitting this statement regarding the President's Budget Request (PBR) for fiscal year 2013 (FY 2013) on behalf of the National American Indian Housing Council (NAIHC). My name is Cheryl A. Causley and I am the Chairwoman of the National American Indian Housing Council (NAIHC), the only national tribal non-profit organization dedicated to advancing housing, physical infrastructure, and economic and community development in tribal communities throughout the United States. I am also an enrolled member of the Bay Mills Indian Community in Brimley, Michigan, and the Executive Director of the Bay Mills Indian Housing Authority. I want to thank the Committee for the opportunity to submit written testimony for the Committee's consideration as it reviews the PBR.

**Background on the National American Indian Housing Council (NAIHC)**

The NAIHC was founded in 1974 and has, for 38 years, served its members by providing invaluable training and technical assistance (T/TA) to all tribes and tribal housing entities; providing information to Congress regarding the issues and challenges that tribes face in terms of housing, infrastructure, and community and economic development; and working with key Federal agencies to address these important and, at times, vexing issues, and to help meet the challenges. The membership of NAIHC is expansive, comprised of 271 members representing 463<sup>1</sup> tribes and tribal housing organizations. The primary goal of NAIHC is to support Native housing entities in their efforts to provide safe, decent, affordable, culturally appropriate housing for Native people.

**Brief Summary of the Problems Regarding Housing in Indian Country**

While the country has been experiencing an economic downturn that many have described as the worst global recession since World War II, this economic reality is greatly magnified in Indian communities. The national unemployment rate seems to have peaked at an alarming rate of nearly 10 percent; however, that rate does not compare to the unemployment rates in Indian Country, which average 49 percent.<sup>2</sup> The highest unemployment rates are on the Plains reservations, where the average rate is 77 percent.<sup>3</sup>

Because of the remote locations of many reservations, there is a lack of basic infrastructure and economic development opportunities are difficult to identify and pursue. As a result, the poverty rate in Indian country is exceedingly high at 25.3 percent, nearly three times the national average.<sup>4</sup> These employment and economic development challenges exacerbate the housing situation in Indian Country. Our first Americans face some of the worst housing and living conditions in the country and the availability of affordable, adequate, safe housing in Indian Country falls far below that of the general U.S. population.

- According to the 2000 U.S. Census, nearly 12 percent of Native American households lack plumbing compared to 1.2 percent of the general U.S. population.
- According to 2002 statistics, 90,000 Indian families were homeless or under-housed.
- On tribal lands, 28 percent of Indian households were found to be over-crowded or to lack adequate plumbing and kitchen facilities. The national average is 5.4 percent when structures that lack heating and electrical equipment are included, roughly 40 percent of reservation housing is considered inadequate, compared to 5.9 percent of national households.
- Seventy percent of the existing housing stock in Indian Country is in need of upgrades and repairs, many of them extensive.

<sup>1</sup>There are approximately 566 federally-recognized Indian tribes and Alaska Native villages in the United States, all of whom are eligible for membership in NAIHC. Other NAIHC members include state-recognized tribes that were deemed eligible for housing assistance under the 1937 Housing Act and grandfathered in to the Native American Housing Assistance and Self-Determination Act of 1996.

<sup>2</sup>Bureau of Indian Affairs Labor Force Report (2005).

<sup>3</sup>Many of these reservations are in the State of South Dakota, which has one of the lowest unemployment rates in the nation. On some SD reservations, the unemployment rate exceeds 80 percent.

<sup>4</sup>U.S. Census Bureau, *American Indian and Alaska Native Heritage Month: November 2011*. See <http://www.census.gov>.

- Less than half of all reservation homes are connected to a sewer system.

There is already a consensus among many members of Congress, HUD, tribal leaders, and tribal organizations that there is a severe housing shortage in tribal communities; that many homes are, as a result, overcrowded; that many of the existing homes are in need of repairs, some of them substantial; that many homes lack basic amenities that many of us take for granted, such as full kitchens and plumbing; and that at least 250,000 new housing units are needed in Indian Country.

These issues are further complicated by the status of Indian lands, which are held in trust or restricted-fee status. As a result, private financial institutions will generally not recognize tribal homes as collateral to make improvements or for individuals to finance new homes. Private investment in the real estate market in Indian Country is virtually non-existent, with tribes almost entirely dependent on the Federal Government for financial assistance to meet their growing housing needs. The provision of such assistance is consistent with the Federal Government's well-established trust responsibility to American Indian tribes and Alaska Native villages.

#### **The Native American Housing Assistance and Self-Determination Act**

In 1996, Congress passed the Native American Housing Assistance and Self-Determination Act (NAHASDA) to provide Federal statutory authority to address the above-mentioned housing disparities in Indian Country. NAHASDA is the cornerstone for providing housing assistance to low-income Native American families on Indian reservations, in Alaska Native villages, and on Native Hawaiian Home Lands.

The Indian Housing Block Grant (IHBG) is the funding component of NAHASDA, and since the passage of NAHASDA in 1996 and its first fiscal year of funding in 1998, NAHASDA has been the single largest source of funding for Native housing. Administered by the Department of Housing and Urban Development (HUD), NAHASDA specifies which activities are eligible for funding.<sup>5</sup> Not only do IHBG funds support new housing development, acquisition, rehabilitation, and other housing services that are critical for tribal communities; they cover essential planning and operating expenses for tribal housing entities. Between 2006 and 2010, a significant portion of IHBG funds, approximately 24 percent, were used for planning, administration, and housing management and services.

#### **American Recovery and Reinvestment Act and FY 2010 Indian Housing Funds**

NAIHC would like to thank Congress for its important work to increase the much-needed investment in Indian housing during the past several years. In FY 2010 the American Recovery and Reinvestment ACT (ARRA) of 2009 provided over \$500 million for the IHBG program. This additional investment in Indian Country supported hundreds of jobs, permitted some tribes to start on new construction projects, and assisted still other tribes in completing essential infrastructure for housing projects that they could not have otherwise afforded with their yearly IHBG allocations. Tribes have complied with the mandate to obligate the funds in an expeditious manner, thus helping stimulate tribal, regional and the national economies.

In addition to ARRA funding, Congress appropriated \$700 million for the IHBG in FY 2010, the first significant increase for the program since its inception. This positive step reversed a decade of stagnate funding levels that neither kept pace with inflation nor addressed the acute housing needs in Native communities. As you know, the Congress did not continue the upward trajectory in Indian housing funding and the appropriations have remained flat for each the past two fiscal years at \$650 million.

#### **The President's 2013 Budget Request for the Indian Housing Block Grant**

President Obama released his FY 2013 budget request on February 13. The PBR established total spending of level of \$3.80 trillion, up from an estimated \$3.79 trillion enacted in FY 2012. This spending level includes \$44.8 billion in budget authority for HUD, a 3.2 percent increase above the FY 2012 funding level.

Despite the increase in overall HUD spending, the Administration has proposed level funding for the Indian Housing Block Grant (IHBG) at \$650 million for FY 2013. Were the President's budget proposal to be accepted, it would mark the third consecutive year that the budget would be flat-lined. The budget proposal also includes \$60 million for the Indian Community Development Block Grant, the same level of funding that was appropriated in FY 2012, and zero funding for the widely

<sup>5</sup> Eligible activities include but are not limited to down-payment assistance, property acquisition, new construction, safety programs, planning and administration, and housing rehabilitation.

acclaimed training and technical assistance (T/TA) program. NAIHC respectfully requests that funding for the 2013 ICDBG be set at \$100 million for the much-needed housing, infrastructure and economic development activities that the ICDBG provides, and that the T/TA funding be no less than \$4.8 million.

The NAIHC is the only national Indian housing organization that provides comprehensive training and technical assistance (T/TA) on behalf of tribal nations and their housing entities. Because they know the value added by NAIHC, the NAIHC membership has voted unanimously during each of their annual conventions since 2006, to support a resolution that seeks to set-aside a portion of their own Indian Housing Block Grant funding to support NAIHC's T/TA program. In addition, NAIHC members have expressed concerns about the quality of training provided by HUD contractors. Again, to ensure high-quality T/TA, the NAIHC should be funded at not less than \$4.8 million.

I want to again express, on behalf of the 271 tribal housing programs representing some 463 tribes that make up the NAIHC membership, our sincere gratitude for the Subcommittee's support. It is worth noting that the ARRA funding spend-out rate for tribal programs exceeded the spend-out rate of HUD's non-Indian ARRA-funded programs. Spending rates for the tribal programs were at the 95 percent level, which is fully 10 percent more than the total HUD expenditure rate of 85 percent. When tribal communities are provided access to much-needed housing funding, they are able to efficiently and effectively utilize these dollars to address the long-standing housing and infrastructure needs of their communities. Sustained federal investment in housing and infrastructure for Native peoples is essential to maintaining the momentum gained by recent investment.

#### **Other Indian Housing and Related Programs**

##### *The Title VI and Section 184 Indian Housing Loan Guarantee Programs*

The President's budget request includes \$2 million for the Federal guarantees for Financing Tribal Housing Activities, also known as the Title VI Loan Guarantee program, and \$7.0 million for the Indian Housing Loan Guarantee Program, also known as the Section 184 Program. The Title VI program is important because it provides a 95 percent loan guarantee on loans made by private lenders, which is an incentive for lenders to get involved in the development of much-needed housing in tribal areas.

The Section 184, Indian Home Loan Program, is specifically intended to facilitate home loans in Indian Country. NAIHC believes that, based on several years of experience, the PBR for these two programs, funded at \$2 for the Title VI program as requested in the PBR, but respectively request that the funding for the Section 184 program be restored to the \$9 million level that was enacted for FY 2009.

##### *Indian Community Development Block Grant (ICDBG)*

While appreciated, the President's proposal of \$60 million for the ICDBG is insufficient to meet the current needs for essential infrastructure, including sewer and running water, in Indian Country. We request that this program be funded at \$100 million.

##### *Native Hawaiian Housing*

Low-income Native Hawaiian families continue to face tremendous challenges, similar to those that tribal members face in the rest of the United States. The President's funding request of \$13 million for the Native Hawaiian Housing Block Grant is appreciated; however, NAIHC recommends this program be funded at \$20 million. but the budget includes no funding for the Section 184A program in Hawaii. While it has taken some time to get this program started—because lenders are not familiar with the Section 184A program—providing no funding would be a step backward for Native Hawaiian families working toward homeownership. We urge Congress to consider this before agreeing to the Administration's proposal to eliminate funding for the program.

#### **Training and Technical Assistance and the Proposed Transformation Initiative**

The President's proposed budget eliminates entirely the much-needed, exceptional T/TA that has been provided by NAIHC since the inception of NAHASDA. The provision of T/TA is critical for tribes to build their capacity to effectively plan, implement, and manage tribal housing programs. Eliminating funding for T/TA would be disastrous for tribal housing authorities and would be a huge step in the wrong direction. Tribes need more assistance in building capacity, not less.

Since NAIHC's funding for T/TA was restored in 2007, requests for T/TA have steadily grown. The funding that NAIHC is currently receiving is insufficient to

meet the continuous, growing demand for T/TA. Therefore, we are forced to make difficult decisions regarding when, where, and how to provide the most effective T/TA possible to our membership.

The budget request proposes an agency-wide Transformation Initiative Fund (TIF) with up to 0.5 percent of HUD's total budget, which would draw funds away from essential housing programs, including \$3.3 million from the IHBG account, "to continue the on-going comprehensive study of housing needs in Indian Country and native communities in Alaska and Hawaii." While the NAIHC membership believes the TI may have merit, we do not believe that transferring nearly \$3.3 million from the IHBG is a wise or even defensible use of IHBG funds.

More importantly, the \$3.3 million affects funding that has historically been appropriated to NAIHC for T/TA. As I have previously noted, the NAIHC membership has repeatedly taken the position that a portion of the IHBG allocation should be provided to NAIHC for T/TA, which is a reflection of their confidence in NAIHC and the continuing demand for the essential capacity-building services that we provide. We request that funding in the amount of \$4.8 million for T/TA be included in the FY 2013 budget.

### Conclusion

NAHASDA was enacted to provide Indian tribes and Native American communities with new and creative tools necessary to develop culturally appropriate, safe, decent, affordable housing. While we value and appreciate the investment and efforts that this Administration and the Congress have made possible, NAIHC has very specific concerns, enumerated above, with the President's proposed budget for the Indian housing funding levels and hopes that Congress, with the leadership of this important Committee, will work with the NAIHC and the Administration to recognize the acute housing needed that continue to exist in tribal communities.

Consider these needs against a backdrop that includes the following observation from the Government Accountability Office (GAO) in their Report 10-326, Native American Housing, issued in February 2010 to the Senate Committee on Banking and the House Committee on Financial Services noted that the following:

NAHASDA's first appropriation in fiscal year 1998 was \$592 million, and average funding was approximately \$633 million between 1998 and 2009. The highest level of funding was \$691 million in 2002, and the lowest was \$577 million in 1999. For fiscal year 2009, the program's appropriation was \$621 million. However, when accounting for inflation, constant dollars have generally decreased since the enactment of NAHASDA. The highest level of funding in constant dollars was \$779 million in 1998, and the lowest was \$621 million in 2009.<sup>6</sup>

The needs in Indian Country have not lessened since this report was issued just two years ago. In fact, a cursory review of the Department of Commerce's Bureau of the Census suggests the needs continue to increase along with a growing and ever younger population. In a report prepared in November 2011 the Census reported that:

- The nation's American Indian and Alaska Native population increased by 1.1 million between the 2000 Census and 2010 Census, or 26.7 percent, while the overall population growth was 9.7 percent;
- The median income of American Indian and Alaska Native households was \$35,062 compared with \$50,046 for the nation as a whole.
- The percent of American Indians and Alaska Natives that were in poverty in 2010 was 28.4 percent compared to the 15.3 percent for the nation as a whole.
- The percentage of American Indian and Alaska Native householders who owned their own home in 2010 was 54 percent compared with 65 percent of the overall population.

I wish to conclude this written testimony by thanking Chairman Akaka, Vice Chairman Barrasso, and all of the members of this Committee for allowing us to express our views and our aspirations.

I know we can count on you to support our efforts. Together, we can continue the important work of building communities in Indian Country. Your continued support of Native American communities is truly appreciated, and the NAIHC is eager to work with you and your professional staff on any and all issues pertaining to Indian housing programs and living conditions for America's indigenous people.

<sup>6</sup>See GAO Report 10-326 at [www.gao.gov/products/GAO-10-326](http://www.gao.gov/products/GAO-10-326).

## PREPARED STATEMENT OF HON. DEXTER MCNAMARA, TRIBAL CHAIRMAN, LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS

Mr. Chairman and Members of the Committee, my name is Dexter McNamara, Tribal Chairman of the Little Traverse Bay Bands of Odawa Indians. Thank you for the opportunity to submit written testimony on Bureau of Indian Affairs FY 2013 Budget.

Natural resources are of the utmost importance to the Little Traverse Bay Band of Odawa Indians (LTBB). LTBB, along with the other four 1836 Treaty of Washington signatory Tribes (Chippewa/Ottawa Resource Authority --CORA), have fought long and hard to achieve recognition of their treaty reserved hunting/fishing/gathering rights (Article 13). The exercises of those rights form the base of Odawa culture and are essential to Odawa identity. The CORA tribes have worked tirelessly since the signing of the Treaty to ensure that the Treaty provisions would be honored. Numerous tribal members have spent enormous parts of their lives to this end.

***U.S. v Michigan***

The interpretation of Article 13 of the 1836 Treaty of Washington began in the late 1970's with the filing of the historic court case *U.S. v Michigan*. The issue was partially resolved with the signing of the 1985 Great Lakes Consent Decree (followed by the 2000 Great Lakes Consent Decree) and finally resolved with the signing of the 2007 Inland Consent Decree. These two federal court orders govern the allocation of shared resources and the management of those resources amongst and by the Tribes, the State of Michigan and United States Federal Government.

The Decrees are comprehensive and complex documents. In order to achieve an agreement of this scope and magnitude, the Tribes made many concessions, assumptions, sub-agreements, and politically difficult changes in their natural resource harvesting activities and associated management structures, including the forfeiture of some commercial opportunities. The Decrees also established many obligations and responsibilities for all parties. For the Tribes, these responsibilities are heavily weighted toward development of regulations, biological monitoring and assessment, enforcement of the newly enacted regulations, and numerous inter-governmental processes; all of which impose a substantial and permanent financial burden for the Tribes.

In order to meet the obligations mandated by the Consent Decrees, while providing for long-term sustainable use of the resources for the next seven generations, the Tribe will need to establish and then maintain management capability in several core areas, including Conservation Enforcement, Biological monitoring and assessment, Tribal Court, and Administration. Initiation of these management programs is dependent on

**adequate funding.** The future viability of both the treaty right and the established Decrees are inexorably linked to the United States meeting its trust responsibility through the appropriation of funds for these vital programs. The United States is party to each of the Consent Decrees and was the plaintiff on behalf of the Tribes in *U.S. v Michigan*. As such the United States has a tremendous responsibility and an obligation to the Tribes to assist in the implementation of those Decrees through the appropriation of funds or the authorization of federal staff or equipment to assist the Tribes in the exercise, management and protection of those treaty rights.

**BIA Rights Protection Implementation**

LTBB is writing you with great urgency to ask that even in this financially difficult time that the committee take the time to properly understand the long term relationship between the CORA Tribes and the U.S. Federal government, that the committee fully take into consideration all that Tribes have sacrificed and the promises that have been made by the United States from the early days of a fledgling democracy to the present day. The United States has an obligation and trust responsibility to fulfill those promises. The ability of the Tribes to fully protect and exercise their Treaty Rights is dependent on the Federal support through the authorization and appropriation of funds. LTBB urges you to increase the BIA Rights Protection Implementation program to \$40 million in FY 2013.

While LTBB is grateful for the funds appropriated to date, there have been no increases related to the 2007 Inland Consent Decree (over 5 years ago) and the new financial burdens of that agreement. LTBB along with the other CORA Tribes seek to have at a minimum the \$3,951,000 in recurring base funding budgeted in the President's FY 2013 Request maintained and seeks an additional amount of \$458,294 for a total of \$4,409,294 in Bureau of Indian Affairs (BIA) *Rights Protection Implementation* funds for FY 2013. The funds are essential for the implementation of CORA Tribes' *United States v. Michigan* federally entered Consent Decrees, the 2000 Great Lakes Consent Decree and the 2007 Inland Consent Decree. The request is also consistent with past practices of Congress in appropriating funds to BIA *Rights Protection Implementation* Tribal organizations. As a part of the overall increase to the to the BIA *Rights Protection Implementation* program in 2010, the Northwest Indian Fisheries Commission (NWIFC) received a 70% increase of over \$3.5 million dollars.

**BIA Rights Protection Implementation FY 2013 Request**

	FY 2012 Enacted	President's FY 2013 Request	FY 2013 Request
Chippewa/Ottawa Treaty Fisheries:	2370	3951	4410

**BIA Conservation Enforcement**

There is a critical need for funding for conservation enforcement in Indian Country. Fish

and game are extremely important to tribes both economically and culturally. The protection of these resources from fish and game violators is essential. The Midwest Region Tribal Conservation enforcement personnel must patrol millions of acres of land and water. The BIA has provided little or no funding in the past for this important component of law enforcement and public safety, even though the Secretary is required to protect trust natural resources. LTBB asks that \$10 million in funding be appropriated to the BIA for Conservation Enforcement in FY 2013.

Thank you for taking the time to consider this important matter.

PREPARED STATEMENT OF JAMES ZORN, EXECUTIVE ADMINISTRATOR, GREAT LAKES  
INDIAN FISH AND WILDLIFE COMMISSION (GLIFWC)

**Introduction**

On behalf of the Great Lakes Indian Fish and Wildlife Commission, thank you for the opportunity to provide testimony on the Administration's proposed FY 2013 funding for tribal programs that impact GLIFWC member Tribes.

The Great Lakes Indian Fish and Wildlife Commission ("GLIFWC" or "Commission") is a natural resources management agency made up of eleven member Ojibwe tribes ("member Tribes"). GLIFWC was created in 1984 to assist its member Tribes in the exercise of their regulatory authority over off-reservation hunting, fishing, and gathering treaty rights within ceded territories. These rights were reserved through land-cession treaties with the United States, and have been subsequently affirmed by various Federal courts, including the United States Supreme Court. The ceded territories of GLIFWC member Tribes on which these rights are exercised extend over a 60,000 square mile area in Minnesota, Wisconsin, and Michigan.

The Commission has been funded by Congress for over 25 years—recognized as a necessary partner in meeting specific federal treaty and statutory obligations toward GLIFWC member Tribes; fulfilling conservation, habitat protection, and law enforcement functions required by federal court decisions affirming the member Tribes' treaty rights; effectively regulating harvests of natural resources shared among the treaty signatory Tribes; and serving as an active partner with State, Federal and local governments, educational institutions, and conservation organizations and other non-profit agencies. Over the years, GLIFWC has built and maintained a number of partnerships with these entities and built up a highly-trained and experienced staff focused on protecting resources throughout the ceded territories, providing Tribal input in partnership management decisions, and ensuring Tribal members are exercising their treaty-reserved rights according to federal court mandates and in accordance with Tribal codes and agreements.

Through its staff of 65 full-time biologists, scientists, technicians, conservation enforcement officers, policy specialists, and public information specialists, GLIFWC performs the following activities: (1) natural resource population assessments and studies; (2) harvest monitoring and reporting; (3) enforcement of tribal conservation codes in tribal courts; (4) funding for tribal courts and tribal registration/permit stations; (5) development of natural resource management plans and tribal regulations; (6) negotiation and implementation of agreements with state, federal, and local agencies; (7) invasive species eradication and control projects; (8) biological and scientific research, including fish contamination testing; and (9) development and dissemination of up-to-date public information materials.

In support of GLIFWC's mission, the Commission supports the following three funding requests within the Administration's FY 2013 budget request.

**GLIFWC Support of Funding to Fulfill Treaty Purposes**

1. *Great Lakes Area Resource Management \$6,367,000.* This program falls within the *Rights Protection Implementation (RPI)* line item, which is proposed at \$32,645,000 in FY 2013. Funds provided to GLIFWC under the RPI program ensure that GLIFWC's member Tribes continue to comply with federal court orders by ensuring effective implementation of tribal self-regulatory and co-management systems. GLIFWC's mission is to: (1) ensure that its member Tribes are able to exercise their rights for the purposes of meeting subsistence, economic, cultural, medicinal, and spiritual needs; and (2) ensure a healthy and sustainable natural resource base that supports these rights. In pursuit of this mission, GLIFWC operates a comprehensive ceded territory hunting, fishing, and gathering rights protection and implementation program that includes conservation, natural resource protection, and law enforcement activities.

In previous fiscal years, GLIFWC has testified before the House Appropriations Subcommittee on Interior, Environment, and Related Agencies regarding the chronic underfunding the RPI line item has suffered through the years and how this underfunding caused GLIFWC to cut its programs, threatening their viability. In FY 2010, Congress recognized this threat and provided a much-needed increase in support. Following Congressional lead, the Administration has incorporated that increase in its FY 2013 proposal. Funding at or near FY 10 levels has allowed GLIFWC to restore some of its program cuts.

Funding at the proposed FY 2013 level would enable GLIFWC to meet even more of its program needs, continuing the much-needed effort to correct years of underfunding. GLIFWC recently estimated the full cost of its program at approximately \$9,870,000, including: \$5,434,000 provided in FY 2012 through the RPI line item, approximately \$1,800,000 provided by grants and other "soft" funding in FY 2012,

and \$2,636,000 in unmet needs. Funding at the proposed FY 2013 level would begin to address these unmet needs.<sup>1</sup> GLIFWC is grateful to both Congress and the Administration for this recent support for the RPI line item, which provides funding for all treaty commissions to fulfill federal and Supreme Court litigated responsibilities.

The ceded territories within the Great Lakes region are home to complicated ecosystems that are facing increasing and variable threats—from mining activities to new invasive species discoveries. The Tribes' treaty rights mean little if contamination of natural resources threatens their abundance or quality, or if the habitats supporting these resources are degraded to the point they are unusable. Therefore, GLIFWC fully supports the Administration's proposed FY 2013 funding levels for both the Great Lakes Area Resource Management line item—to ensure the region has the ability to face these new threats, and continue to fully participate in regional and international management activities—and the overall RPI line item, which provides necessary funds to meet federal obligations. GLIFWC is grateful to both Congress and the Administration for the recent support they have shown for the RPI line item.

2. *Contract Support: \$228,000,000. (Department of the Interior, Bureau of Indian Affairs, Operation of Indian Programs, Tribal Government.)* GLIFWC strongly supports the proposed \$228,000,000 in funding for Contract Support included in the Administration's FY 2013 budget request. This amount would meet the needs identified in the most recent Contract Support Shortfall Report to fully fund this account, which provides funds to meet costs incurred in fulfilling administrative requirements that are mandated when operating programs, including costs for accounting, personnel administration, and property management. Rectifying this chronic underfunding will allow GLIFWC to direct scarce resources toward restoring program cuts and service capacity.

3. *EPA Great Lakes Restoration Initiative: \$300,000,000 (Environmental Protection Agency, Environmental Programs and Management, Geographic Programs, Great Lakes Restoration.)* While not traditionally thought of as a "tribal program," the Great Lakes Restoration Initiative (GLRI) provides important support for the management, protection, and restoration of ecosystems necessary for GLIFWC member Tribes to exercise their treaty-reserved rights on ceded territories. As such, GLIFWC supports for continued funding for the GLRI at no less than the Administration's proposed FY 2013 level of \$300,000,000. It also recommends that at least \$25 million be provided to the BIA for tribes, to ensure they are able to undertake local projects that contribute to the protection and restoration of the Great Lakes.

GLIFWC estimates its annual need for GLRI funding at approximately \$1.2 million. Sustained funding at this level will enable GLIFWC to retain jobs it was able to create through the GLRI program, to fully implement the projects it undertook to meet the goals of the GLRI, and to meaningfully participate in the decisions that will affect the treaty rights and resources of its member Tribes, ensuring that those decisions are made only after being fully informed about potential impacts to ceded territory resources.

With the requested EPA funding base, GLIFWC would maintain its role as a trusted environmental management partner and scientific contributor in the Great Lakes Region. It would bring a tribal perspective to the interjurisdictional mix of Great lakes managers and would use its scientific expertise to study issues and geographic areas that are important to its member Tribes that others may not be examining.

Furthermore, funding provided through the BIA should be made available under the Indian Self-Determination and Education Assistance Act (ISDEAA). In 2010, GLRI funding awarded through the ISDEAA was virtually the only GLRI funding that was available before the 2010 field season. This funding was then out the door and working months before the funds provided through different mechanisms, allowing for the early hiring of much needed technical employees and the early implementation of projects to realize substantial "on-the-ground" ecosystem benefits.

#### **GLIFWC Support for Related Appropriations Concerns**

1. *Support for BIA Conservation Law Enforcement Officers:* GLIFWC supports BIA's proposal to provide \$500,000 in FY 2013 to support conservation officers like

<sup>1</sup>Specifically, with the additional FY 2013 funds, GLIFWC would meet unmet needs in four areas: (1) increased harvest monitoring needs across a greater portion of the ceded territories, (2) conservation law enforcement officer retention and training, (3) providing up-to-date public information using current technologies, and (4) research and assessment of increasing threats to ceded territory ecosystems. Without understanding the complex relationships and stresses on these ecosystems and the resulting impacts to natural resource populations, the likelihood of social and political conflicts between user groups can increase.

those employed by GLIFWC. This program will assist tribal conservation enforcement programs in protecting and monitoring natural resources both on and off-reservation.

2. *BIA Circle of Flight Tribal Wetland and Waterfowl Initiative*: GLIFWC supports BIA funding of the Circle of Flight Tribal Wetland & Waterfowl Enhancement Initiative for Michigan, Minnesota, and Wisconsin. The Circle of Flight program is a long-standing tribal contribution to the North American Waterfowl Management Plan that has leveraged matching partnership funding on a 3 to 1 ratio. In 2010, this program was awarded a Department of Interior "Partners in Conservation" Award.

### **Conclusion**

Over the years, GLIFWC has become a recognized and valued partner in natural resource management, in emergency services networks, and in providing accurate information to the public. Because of its institutional experience, staff expertise, and proven record of delivering measurable results, GLIFWC provides continuity and stability in interagency relationships and among its member Tribes, and contributes to social stability in the context of ceded territory treaty rights issues. The strength of GLIFWC's reputation and partnerships has allowed it to participate in international Great Lakes forums, including the Binational Program to Restore and Protect Lake Superior, the International Joint Commission and SOLEC forums, the Great Lakes Restoration Initiative, and the implementation of agreements to regulate water diversions and withdrawals under the Great Lakes Charter, Annex 2001.

Thank you for providing GLIFWC the opportunity to submit this testimony in support of FY 2013 funding for tribal programs.

## PREPARED STATEMENT OF THE NATIONAL INDIAN HEALTH BOARD

The National Indian Health Board<sup>1</sup> (NIHB), in service to the 566 federally recognized Tribes, offers the following written comments regarding the U.S. Senate Committee on Indian Affairs Oversight Hearing on, "The President's Fiscal Year 2013 Budget for Native Programs."

First, it cannot be overstated how thankful the NIHB is to this Congress for the passage of a 6% increase in funding to IHS for Fiscal Year (FY) 2012. Over the last three years, Congress and the Administration have made their commitments to Indian health and the fulfillment of the federal trust responsibility clear by ensuring that the IHS receives annual increases. As a result, IHS has been able to treat more patients than ever before, and American Indians and Alaska Natives (AI/ANs) have made small, but real gains in health status. NIHB applauds you for your dedication to upholding the sacred trust between the U.S. government and Tribes. Together, we must protect this recent progress.

In light of the current economic climate, the NIHB was relatively pleased to learn that, for the FY 2013 IHS budget, the Administration recommends a \$115.9 million increase over the FY 2012 enacted IHS appropriations. Under the discretionary spending limits of the *Budget Control Act of 2011*, this 2.7% increase is significant. Where many other budget accounts saw deep cuts, this increase acknowledges the critical health needs of our tribal communities and represents the continued commitment to honor the federal government's legal obligation and sacred responsibility to provide health care to AI/ANs.

Yet, based on factors like population growth, medical inflation, and the possibility of cuts enacted through the sequestration process, this modest increase will, at most, only allow for the continuation of IHS current services. With exception of the Veteran's Administration, IHS is the only provider of direct care in the federal government, and funding levels should reflect its unique charge. Since IHS is currently funded, on average, at just 56.5% of need, this level of funding will not allow the agency to address the stark health disparities between AI/ANs and the U.S. general population. While we recognize the budget realities we face as a nation, the NIHB believes that a greater increase for the IHS is critically important and can be achieved. On behalf of the 566 Tribes, we urge this Congress to adopt funding levels for IHS more closely aligned with the FY 2013 National Tribal Budget Formulation Workgroup's recommendations.

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<sup>1</sup> Established in 1972, the NIHB serves all federally recognized tribal governments by advocating for the improvement of health care delivery to American Indians/Alaska Natives, as well as upholding the federal government's trust responsibility to American Indians/Alaska Natives. We strive to advance the level and quality of health care and the adequacy of funding for health services that are operated by the IHS, programs operated directly by Tribal Governments, and other programs. Our Board Members represent each of the twelve Areas of Indian Health Service Areas and are elected at-large by the respective Tribal Governmental Officials within their Area. The NIHB is the only national organization solely devoted to the improvement of Indian health care on behalf of the Tribes.

### National Tribal Budget Formulation Workgroup's Recommendations

The trust obligation to provide health care is paramount, and it is upon this foundation that the IHS National Tribal Budget Formulation Workgroup ("Workgroup") built its recommendations for the FY 2013 IHS budget. The Workgroup consists of tribal representatives from each of the 12 IHS Areas. Each year, this Workgroup consolidates all the IHS Areas' budget formulation recommendations; develops a consensus national tribal budget and health priorities document; and presents the recommendation to the U.S. Department of Health and Human Services (HHS).<sup>2</sup> The NITB supports this government-to-government process and the final recommendations developed by the Workgroup.

For FY 2013, the Workgroup's recommendations were formally presented to the HHS on March 4, 2011, more than eleven months before the President presented his FY 2013 budget proposal to Congress. The Workgroup developed their recommendations based on the FY 2012 President's proposed budget. The recommendations focus on two types of needed increases:

1. Current Services Increases and Binding Obligations: *Preserving basic health care programs currently being funded.* Increases in current services are the budget increments needed to enable the Indian health care delivery system to continue operating at its current level. Current services comprise such items as federal and tribal pay cost increases; inflation; and funding for population growth. Also contained in this category are binding obligations that represent financial commitments previously made by IHS. These items must be funded in order to honor pledges made by the federal government. These binding obligations comprise of health care facilities construction, staffing for new and replacement facilities, and the shortfall in Contract Support Costs. Without these increases to base funding, the Indian health system would experience a decrease in its ability to care for the service population. In this economic climate, these increases are more important than ever. For 2013, the Workgroup recommends an increase of \$743 million for these items to maintain the existing level of services.
2. Program Increases: *Significant program increases are required to address the overwhelming health needs in Indian Country.* The recommended increases are made in key IHS budget accounts to enable programs to improve and expand the services they provide to Indian patients. The IHS has long been plagued by woefully inadequate funding in all areas, a circumstance which has made it impossible to supply Indian people with the level of care they need and deserve, and to which they are entitled by treaty obligation. The Workgroup recommends \$688 million be added to identified program and facilities accounts.

Below is a highlight of a few programs targeted by the Tribal Workgroup for vital increases.

Current Services: Inflation (Medical & Non-Medical) and Population Growth: Along with continued under-funding, IHS faces additional financial obstacles in its ability to provide care: inflation, both medical and non-medical, and population growth. Funding for IHS programs has

<sup>2</sup> For copies of previous Workgroup recommendations, please visit the NITB Budget Formulation page at [http://www.nitb.org/legislative/budget\\_formulation.php](http://www.nitb.org/legislative/budget_formulation.php).

not kept pace with inflation, while Medicaid and Medicare have accrued annual increases of 5% - 10%. The \$59.9 million requested is needed to address the rising cost of providing health care and is based on the 1.5% non-medical inflation rate and 3.3% medical inflation rate identified by OMB. However, the actual inflation rate for different components of the IHS health delivery system is much greater. Thus, it is problematic that the President's FY 2013 request only contains an increase for medical inflation for only Contract Health Services. The National Tribal Budget Workgroup recommended that the rates of inflation applied to Hospitals & Clinics, Dental Health, Mental Health and Contract Health Services in developing the IHS budget should correspond to the appropriate components in the CPI, and that there should be parity in the calculation of inflation among HHS operating divisions. **The NIHB urges this Congress to consider the rates of inflation during the appropriations process and recommends a \$59.9 million increase to address these costs.**

Additional funding is also needed to address the effects of population growth on IHS' ability to provide a continued level of care. IHS currently serves 2 million American Indians and Alaska Natives and this service population increases at an average rate of 1.9% annually.<sup>3</sup> The exclusion of population growth as a factor in the President's budget request puts the level of health care services into peril by reducing the availability of life-saving services for AI/ANs. **In accordance with the Workgroup's request, the NIHB proposes that \$52.4 million be added to Current Services to account for population growth.**

**Current Services: Federal and Tribal Pay Costs:** The Workgroup recommended an \$11 million increase for federal pay costs and a \$13 million increase for tribal pay costs. However, the President's proposal contains a 1.7 percent pay raise for Commissioned Officers only at an increase of \$2.4 million. The members of the National Tribal Budget Formulation Workgroup feel strongly that not only Commissioned Officers, but also Tribal and Federal IHS employees require a cost of living increase. **The NIHB recommends that Tribal and Federal IHS employees should be exempted from any federal employee pay freeze.**

**Current Services: Contract Support Costs – Shortfall:** Tribes in all Areas operate one or more such contracts. The ability of Tribes to successfully operate their own health care systems, from substance abuse programs to entire hospitals, depends upon the proper appropriation of Contract Support Costs (CSC). Full CSC funding honors the legal duty to pay these costs, and protects health care resources intended for service delivery. A year ago, the projection to fully fund CSC was \$212 million and we currently await FY 2013 projections from IHS. **The NIHB supports the Workgroup's goal of full funding for CSC.**

**Current Services: Health Care Facilities Construction 5-Year Plan:** The Workgroup's recommendations include \$343 million for previously approved health facility construction projects in accordance with the IHS Health Care Facilities FY 2012 Planned Construction Budget, referred to as the 5-Year Plan. Unfortunately, the Administration's request does not reflect this binding obligation. Rather, the President's FY 2013 Budget proposes a *decrease* to the Health Care Facilities Construction account. If the extensive, decades-long backlog of improvements and new construction continues to be ignored, the Indian Health System will never achieve parity with the U.S. general health system. **The NIHB supports a \$343 million increase to the Health Care Facilities Construction 5-Year Plan.**

<sup>3</sup> IHS Fact Sheet: Indian Population (January 2011) at [www.ihs.gov/PublicAffairs/IHSBrochure/Population.asp](http://www.ihs.gov/PublicAffairs/IHSBrochure/Population.asp)

**Current Services: Staffing for New/Replacement Facilities:** When the Workgroup finalized its recommendations over one year ago, it included as a placeholder \$50 million to fund staffing and operating costs for new facilities in FY 2013. Included in this line item is funding to staff facilities built entirely by Tribes under IHS' Joint Venture Construction Program. The Workgroup acknowledged that this figure should be adjusted, as needed, to cover the total staffing requirement. Although the President's Budget for FY 2013 includes a \$49 million request for staffing, the amount is not sufficient to fully fund staffing for all of the new facilities that have become operational since the Workgroup met. As a result, some facilities may be partially funded or not funded at all. In not meeting staffing obligations, IHS is hindering the great potential for improved health status and job creation that these new facilities represent. The NIHB urges that staffing for new and replacement facilities be fully funded.

**Program Increase: Contract Health Services:** The contract health service (CHS) program serves a critical role in addressing the health care needs of Indian people. The CHS program exists because the IHS system lacks the capacity to provide directly all the health care needed by the IHS service population. In theory, CHS should be an effective and efficient way to purchase needed care – especially specialty care – which Indian health facilities are not equipped to provide. In reality, CHS is so grossly underfunded that Indian Country cannot purchase the quantity and types of care needed. As a consequence, many of our Indian patients are left with untreated and often painful conditions that, if addressed in a timely way, would improve quality of life at lower cost. The Workgroup proposes an increase of \$200 million for CHS.

**Program Increase: Hospitals & Clinics:** Hospitals & Clinics (H&C) funding is a top Tribal budget priority representing additional opportunities to provide direct care, with more than half of the H&C budget transferred to the Tribes themselves. This funding supports essential personal health services, including inpatient care; routine and emergency ambulatory care; medical support services including laboratory, pharmacy, nutrition, diagnostic imaging, medical records, and patient therapy; and specialized programs for health conditions disproportionately affecting AI/ANs, such as diabetes, maternal and child health, women's health, elder health, and disease surveillance. The Workgroup recommends a \$219 million increase to H&C including:

**Indian Health Care Improvement Fund (IHCIF) - \$45 million:** The purpose of the IHCIF is to address deficiencies in health status and resources within the Indian Health System and to promote greater equity in health services among Indian Tribes. The IHCIF directs funding through the Federal Disparity Index to the lowest funded operating units.

**Health Promotion and Disease Prevention (HPDP) - \$30 million:** The goal of the HPDP program is to create health AI/AN communities through programs focused on topics like diabetes, obesity, smoking cessation, cardiovascular disease, environmental quality, oral health, and traditional healing. A focus on cross-cutting issues, such as smoking and obesity, maximizes benefits by simultaneously reducing health risks for multiple conditions.

**Information Technology (IT) - \$30 million:** Funding for IT invests in a burgeoning health IT infrastructure in the Indian Health System, as well as compliance with the HITECH Act and other new regulations. The transition from the ICD-9 to ICD-10 programs for medical diagnosis and inpatient procedure coding under Medicare and Medicaid is

complex and must be completed by October 1, 2013. There has been no allocation to IHS to support this transition.

***Program Increase: Behavioral Health:*** During the Budget Formulation process, the Workgroup identified behavioral health as its top ranked health priority. In concert with other health disparities, AI/ANs experience an alarmingly high incidence of mental and behavioral health disorders, including anxiety, substance abuse, and depression. In fact, they rank first among ethnic groups as likely to experience these types of disorders, with 23% of the AI/AN population reporting that they are frequently anxious or depressed. According to unpublished Indian Health Service (IHS) data, suicide mortality is 73% greater in AI/AN population in IHS service areas compared to the general U.S. population.<sup>4</sup> These serious behavioral health issues profoundly impact individual and community health, both on and off reservation. Increased funding for Mental Health and Substance Abuse line items will allow individuals, families, and communities to begin to heal through clinical, emergency, and in-patient services; community-based prevention programming; child and family protection programs; and tele-behavioral health. To be split equally between the two line items, the NIHB supports the Workgroup's proposal of an \$80 million increase.

***Program Increase: Sanitation Facilities Construction:*** Currently 12% of AI/AN homes do not have an adequate potable water supply in comparison to 1% of homes for the U.S. general population.<sup>5</sup> The IHS Sanitation Facilities Construction (SFC) program provides potable water and waste disposal facilities and IHS reported that for every dollar IHS spends on sanitation facilities to serve eligible existing homes, at least a twentyfold return in health benefits is achieved.<sup>6</sup> Due to the remaining need and success of this investment, the Workgroup recommends an \$11 million increase.

#### **Additional Budget Recommendations**

In addition to the Workgroup's recommendations, the NIHB would like to provide additional recommendations regarding the IHS budget.

#### **Protect IHS Budget from rollbacks, freezes, rescissions, and sequestration**

As a discretionary budget line, the IHS budget is subject to the across the board cuts to discretionary funding. Indian Country is thankful for the support of Congress and the Administration in recent years for significant increases to the IHS budget. However, the IHS budget has been subject to proposed budget cuts in the past. This was detrimental not only to an agency budget, but on the lives and well being of AI/ANs. Today, the IHS budget is funded on average at approximately half the level of need. Any budget cuts, in any form, will have harmful affects on the health care delivery to AI/ANs and will result in an increased loss of life. The NIHB asks the Committee to work to exempt the Indian Health Service from any cuts, freezes, or rescissions.

<sup>4</sup> Fiscal Year 2013 Indian Health Service – Justification of Estimates for Appropriations Committee, Department of Health and Human Services, pg. C1 – 83.

<sup>5</sup> IHS Fact Sheets: Safe Water and Waste Disposal Facilities (January 2011) at <http://nihb.ihs.gov/SafeWater.asp>

<sup>6</sup> *Id.*

With the deleterious effects of cuts still fresh in our minds, NIHB is very concerned about sequestration. Should sequestration occur, the two IHS budget accounts are capped at 2% in potential cuts under the *Budget Control Act of 2011*; however, the consequences of these reductions will be tangible, deadly, and rob the IHS of recent modest gains in health status. Due to factors like medical inflation and population growth, even small cuts have a large impact. Further, the IHS is the only federal provider of direct care to not be fully spared from this process. This must change. If this Congress cannot avoid sequestration through alternate methods of deficit reduction, the NIHB implores this Congress to make the IHS exempt from this process.

*Create a long-term investment plan to fully fund IHS Total Need*

Tribes have long asked for full funding of the IHS. Developing and implementing a plan to achieve funding parity is critical to the future of Indian health and to fulfilling the United States's trust responsibility to AI/AN people. The funding disparities between the IHS and other federal health care expenditures programs still exists and in 2010, IHS spending for medical care was \$2,741 per user in comparison to the average of federal health care expenditure of \$7,239 per person.<sup>7</sup> Tribes and the NIHB ask the federal government to design and implement a true full funding plan for the IHS.

Conclusion

Although our nation has been faced with a new budget reality since the National Tribal Budget Formulation Workgroup met to develop its request for FY 2013, its recommendations remain relevant. These funding levels speak to the binding commitments, both historic and recent, the federal government has made to Tribes, and to the desperate health status of First Americans. NIHB asks that this Committee give deep consideration to the true needs of the IHS, as well as Indian Country, and the federal trust responsibility to AI/ANs. The nation's debt is a pressing issue, but a solution must not be achieved through broken promises.

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<sup>7</sup> IHS Fact Sheets: IHS Year 2012 Profile (January 2012) available at: <http://www.ihs.gov/PublicAffairs/IHSBrochure/Profile.asp>

**THE INDIAN HEALTH SERVICE'S FY 2013 BUDGET RECOMMENDATIONS**

**Current Services Increases**

	<b>Tribal Workgroup FY 2013 Proposal<sup>1</sup></b>	<b>President's FY2013 Request</b>
Federal Pay Costs	\$10,935,000	\$2,412,000
Tribal Pay Costs	13,417,000	0
Inflation	59,977,000	33,987,000
Population Growth	52,466,000	0
Staffing for New/Replacement Facilities	50,000,000	49,236,000
Contract Support Cost – Shortfall	212,592,000	5,009,000
Health Care Facilities Construction 5-Year Plan	343,596,000	0
<b>Total Current Services &amp; Binding Obligations</b>	<b>\$742,983,000</b>	<b>\$85,637,000</b>

**Program Increases**

Hospitals & Clinics	\$219,170,000	\$5,000,000
Indian Health Care Improvement Fund	45,000,000	0
Information Technology	30,000,000	5,000,000
Health Promotion Disease Prevention	30,000,000	0
Dental	21,000,000	1,000,000
Mental Health	40,000,000	0
Alcohol and Substance Abuse	40,000,000	0
Contract Health Services	200,000,000	20,000,000
Urban Indian Health	7,500,000	0
Direct Operations	8,200,000	1,115,000
Contract Support Costs (New & Expanded)	12,000,000	---
Facilities Maintenance & Improvement	11,500,000	1,749,000
Sanitation Facilities Construction	10,700,000	0
Health Care Facilities Construction	10,400,000	(3,559,000)
Small Ambulatory Program	4,500,000	0
Equipment	1,800,000	0
<b>Total Program Expansion</b>	<b>\$688,030,000</b>	<b>\$30,314,000</b>
<b>Total Increases</b>	<b>\$1,431,013,000</b>	<b>\$115,949,000</b>

<sup>1</sup> Note: this chart represents a summary of the National Tribal Budget Workgroup's recommendations. See appendix A for the full National Tribal Budget Recommendation table.

## APPENDIX A: EXCERPT OF NATIONAL TRIBAL BUDGET RECOMMENDATIONS FOR FY 2013

**Executive Summary****Introduction**

"This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

- The Constitution of the United States, Article VI

The federal budget is a moral, as well as a fiscal document. The nation's budget priorities are a demonstration of its core values and, in the case of the Indian Health Service, of its commitment to addressing the health needs of American Indian and Alaska Native people. The budget request for IHS reflects the extent to which the United States honors its promises of justice, health and prosperity to Indian people. The provision of federal health services to American Indians and Alaska Natives (AI/ANs) is the direct result of treaties and executive orders that were made between the United States and Indian Tribes, and of two centuries of Supreme Court case law developed in the wake of those treaties. Through the cession of lands and the execution of treaties, the federal government took on a trust responsibility to provide for the health and welfare of Indian peoples. It is this federal trust responsibility that is the foundation for the provision of federally funded health care to all enrolled members of the 565 federally recognized Indian Tribes, bands, and Alaska Native villages in the United States. The Snyder Act of 1921 provides the basic authority for health services provided by the federal government to American Indian and Alaska Natives. The Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450 *et. seq.*) allows Tribes to assume the administrative and program direction responsibilities that were previously carried out solely by the federal government. The Indian Health Care Improvement Act of 1976 (IHCA) (25 U.S.C. §1601, *et. seq.*), the statutory basis of the Indian health care delivery, was permanently reauthorized in Title X of the Patient Protection and Affordable Care Act (Affordable Care Act)(Pub. L. 111-148), granting new authorities to Indian Health Service (IHS) and the Tribes.

**Foundation for National Tribal Budget Recommendations**

- U.S. treaties and laws requiring the U.S. government to provide health services to Indian people are grounded in the U.S. Constitution. The federal government has a constitutional obligation to fulfill this trust responsibility.
- Because of this trust responsibility, federal spending for the Indian Health Service is mandatory, not discretionary, spending. The Indian Health Service, like the Veteran's Administration, should be exempt from broad-based cuts in discretionary spending and budget rescissions.
- Although significant improvements in mortality and morbidity rates for AI/ANs have been and continue to be made by IHS, Tribal and Urban Indian health programs (I/T/Us or collectively, the

"Indian health system"), serious health disparities persist between AI/ANs and the general U.S. population, and in many areas of health the disparity gap is growing wider.

- In addition to significant health disparities, the Indian health system also faces significant funding disparities, both in per capita spending between IHS and other federal health care programs and within IHS, as reflected by differences in the Level of Need Funded (LNF) among IHS Areas and among sites within IHS Areas.

#### **FY 2013 Budget Priorities & Recommendations**

"Our native communities face problems that are serious, severe, and sometimes chronic... I intend to continue the long tradition of working together on this committee in a bipartisan manner to find solutions that will improve the lives and strengthen the futures of America's native people."

Senator Daniel Akaka (D-HI), Chairman

Senate Indian Affairs Committee, February 7, 2011

The National Tribal Budget Formulation Workgroup offers the following budget recommendations for FY 2013:

#### **Top Budget Priorities**

- Hold Indian health programs harmless and protect prior year and proposed FY11 and FY12 increases from budget roll-backs, freezes and rescissions. We have been encouraged by the increased investments made in Indian health in Fiscal Years 2008, 2009 and 2010 and greatly appreciate President Obama's proposed increases for FY 2011 and 2012, but are equally concerned that efforts by Congress and the Administration to reduce the overall size of the federal budget may jeopardize the progress made in recent years to address severe and chronic health and funding disparities in Indian country.
- Make a commitment to a multi-year funding agreement to fully fund the IHS Total Need of \$22.1 billion over the next 10 years. It will take an additional \$1.6 billion per year over the next ten years for the IHS budget to grow sufficiently to meet the total \$22.1 billion health care need in Indian country. Developing and implementing a plan to achieve funding parity is critical to the future of Indian health and to fulfilling the United States' trust responsibility to AI/AN people. See "AI/AN Needs Based Funding Aggregate Cost Estimate" table and "Percent of Increase Required to Achieve Full Funding in 10 Years - \$22.1 Billion" chart included in the Appendix.
- Increase the IHS budget for FY 2013 by \$1.431 billion in "must have" spending over the FY 2012 President's Budget Request to a total of \$6.054 billion.

- Fully fund Current Services (Federal & Tribal Pay Costs, Medical & Non-Medical Inflation and Population Growth) at +\$136.795 million and other Binding Obligations (New Staffing for New/Replacement Facilities, Contract Support Cost - Shortfall and Health Care Facilities Construction 5-Year Plan) at +\$606.188 million for a total of +\$742.983 million.
- Increase funding for Hospitals & Clinics by \$219.17 million over the FY 2012 President's Budget Request to a total of \$2.18 billion.
- Increase funding for Contract Health Services by \$200 million over the FY 2012 President's Budget Request, plus an additional +\$30 million for the Catastrophic Health Emergency Fund (CHEF) for a total of \$1.17 billion.

#### Other Budget Priorities

- Services increases of \$621.230 million to include:
  - \$200 million for Contract Health Services and \$30 million for CHEF
  - \$80 million for Behavioral Health (Mental Health \$40 million & Alcohol and Substance Abuse \$40 million, with 50% of new Alcohol and Substance Abuse funding targeted to youth)
  - \$75 million in Hospitals & Clinics (H&C) funding for New/Expanded programs
  - \$45 million in Hospitals & Clinics funding for the Indian Health Care Improvement Fund (IHCIF)
  - \$32 million in Hospitals & Clinics funding for Chronic Diseases (Diabetes, Cancer, Cardiovascular Disease)
  - \$30 million in Hospitals & Clinics funding for Health Promotion and Disease Prevention
  - \$30 million in Hospitals & Clinics funding for Information Technology
- Facilities Increases of \$66.800 million to include:
  - \$20.0 million for Health Facilities & Environmental Support
  - \$18.2 million for Health Care Facilities Construction
  - \$11.5 million for Maintenance & Improvement
  - \$16.7 million for Sanitation Facilities Construction

These increases are needed to address funding disparities between the Indian Health Service and other federal health programs as illustrated below and in the "2010 IHS Expenditures Per Capita and Other Federal Health Care Expenditures Per Capita" chart included in the Appendix to these National Tribal Budget Recommendations:

Medicare spending per beneficiary	\$11,018	(2009)
Veterans medical spending per user	\$7,154	(2010)
National Health Expenditures per capita	\$6,909	(2010)
Medicaid spending per enrollee	\$5,841	(2008)
Federal Employee Health Benefits per enrollee	\$4,817	(2009)
Indian Health Service spending per user – all	\$3,348	(2010)
Indian Health Service spending per user – medical care	\$2,741	(2010)

These increases are necessary to address funding disparities within the Indian Health Service, as the Level of Need Funded (LNF) varies widely across and among IHS sites. The Area LNF funded ranged from 50.0% for the Bemidji Area to 62.2% for the Alaska Area for FY 2010. Among all IHS sites, the LNF ranged from a low of 44.7% to a high of 100%, with an average LNF of 56.5%. In December 2010, IHS estimated that it would cost \$217 million to raise all IHS sites to a minimum LNF of 55% and \$394 million to reach a minimum of 65%. See "Average LNF Score for IHS Areas – FY 2010" chart in the Appendix. The chart shows average Level of Need Funded (LNF) scores by Area. It is important to note that the national IHCIF formula applies to LNF scores of individual sites. Area average scores have no impact on IHCIF allocations, and are included here simply to illustrate that we are a long way from 100% LNF.

These increases are also needed to address the erosion of health care funding by population growth and inflation, particularly the diminished purchasing power resulting from medical inflation rates for CHS (estimated at 11%-12% in 2010), pharmaceuticals and other health services that far exceed standard non-medical inflation rates (1.5% in 2010) and general other medical inflation (3.6% in 2010).

"The federal Indian programs that we fight hardest to fund were created to fulfill the trust responsibility between this Nation and its first people. Authority to fund these programs derives from three distinct provisions of the Constitution – the Indian Commerce Clause, the Treaty Clause and the Property Clause. This is not "nice to have" spending. That is "must have" spending to fulfill the trust responsibility founded in the Constitution."

Senator Lisa Murkowski (R-AK), Ranking Member  
Subcommittee on Interior and the Environment  
Senate Committee on Appropriations, January 27, 2011

<b>FY 2013 National Tribal Budget Recommendation Table</b>		
<b>PLANNING BASE - FY 2012 President's Budget</b>		<b>Recommendation</b>
		<b>\$4,623,868,000</b>
<b>Total increase to be spread</b>		<b>\$1,431,013,000</b>
<b>Current Services &amp; Binding Obligations</b>	<b>Subtotal</b>	<b>\$742,983,000</b>
<b>Current Services</b>	<b>Subtotal</b>	<b>\$136,795,000</b>
Federal Pay Costs <sup>1</sup>		\$10,935,000
Tribal Pay Costs		\$13,417,000
Inflation (medical & non-medical)		\$39,977,000
Population Growth		\$32,466,000
<b>Binding Obligations</b>	<b>Subtotal</b>	<b>\$606,188,000</b>
Staffing New/Replacement Facilities <sup>2</sup>		\$50,000,000
Contract Support Costs - Shortfall		\$212,592,000
Health Care Facilities Construction 5-Year Plan		\$343,596,000
<b>Program Expansion Increases - Services</b>	<b>Subtotal</b>	<b>\$621,236,000</b>
<b>Hospitals &amp; Clinics</b>	<b>Subtotal</b>	<b>\$219,170,000</b>
Indian Health Care Improvement Fund		\$45,000,000
Health Information Technology <sup>3</sup>		\$30,000,000
Maternal Child Health		\$6,500,000
Health Promotion/Disease Prevention		\$30,000,000
Diabetes, Cancer, Heart Disease		\$32,000,000
Hospitals & Clinics - New/Expanded		\$75,670,000
Dental Services		\$21,000,000
Mental Health		\$40,000,000
Alcohol & Substance Abuse		\$40,000,000
Contract Health Services		\$100,000,000
Catastrophic Health Emergency Fund (CHEF)		\$30,000,000
Public Health Nursing		\$12,600,000
Health Education		\$11,400,000
Community Health Representatives		\$15,400,000
Urban Health		\$7,500,000
Indian Health Professions		\$3,300,000
Tribal Management Grant		\$60,000
Direct Operations <sup>4</sup>		\$8,200,000
Contract Support Costs - New/Expanded		\$12,000,000
<b>Program Expansion Increases - Facilities</b>	<b>Subtotal</b>	<b>\$66,800,000</b>
Maintenance & Improvements		\$11,500,000
Sanitation Facilities Construction <sup>5</sup>		\$10,700,000
Health Care Facilities Construction (HCFC) Authorities		\$10,400,000
Small Ambulatory		\$4,500,000
Youth Regional Treatment Centers		\$3,300,000
Facilities & Environmental Support		\$20,000,000
Injury Prevention		\$2,600,000
Equipment		\$1,800,000
Ambulance		\$2,000,000
<b>TOTAL</b>		<b>\$6,054,821,000</b>

<sup>1</sup> Federal Pay Costs - to be adjusted if pay freeze is extended  
<sup>2</sup> Staffing New Facilities - to be adjusted to cover total requirement  
<sup>3</sup> Health IT - increase distributed first to tribes to assist in meeting Meaningful Use and ICD-10  
<sup>4</sup> D&O New/Expanded - to address the health priorities established by each Area  
<sup>5</sup> Direct Operations - placeholder to establish Nevada Area Office, if approved  
<sup>6</sup> Sanitation Facilities Construction - increase on this line is over FY 2011 President's Budget

PREPARED STATEMENT OF NORTHWEST PORTLAND AREA INDIAN HEALTH BOARD

On behalf of the 43 Federally-recognized Tribes that the Northwest Portland Area Indian Health Board represents, we thank you for this opportunity to provide this statement on the President's FY 2013 budget request for the Indian Health Service (IHS).

Established in 1972, NPAIHB is a P.L. 93-638 tribal organization that represents 43 federally recognized Tribes in the states of Idaho, Oregon, and Washington on health care issues. Over the past twenty-one years, our Board has conducted a detailed analysis of the Indian Health Service (IHS) budget. Our *Annual IHS Budget Analysis and Recommendations* report has become the authoritative document on the IHS budget. It is used by the Congress, the Administration, and national Indian health advocates to develop recommendations on the IHS budget. It is indeed an honor to present you with our recommendations.

### Indian Health Disparities

The Indian Health Care Improvement Act (IHCIA) declares our Nation's policy is to elevate the health status of the Ail AN people to a level at parity with the general U.S. population. Over the last thirty years the IHS and Tribes have made great strides to improve the health status of Indian people through the development of preventative, primary-care, and community-based public health services. Examples are seen in the reductions of certain health problems between 1972–74 and 2000–2002: gastrointestinal disease mortality reduced 91 percent, tuberculosis mortality reduced 80 percent, cervical cancer reduced 76 percent, and maternal mortality reduced 64 percent; with the average death rate from all causes dropping 29 percent.<sup>1</sup>

While Tribes have been successful at reducing the burden of certain health problems, there is strong evidence that other types of diseases are on the rise for Indian people. For example, national data for Indian people compared to the U.S. all races rates indicate they are 638 percent more likely to die from alcoholism, 400 percent greater to die from tuberculosis, 291 percent greater to die from diabetes complications, 91 percent greater to die from suicide, and 67 percent more likely to die from pneumonia and influenza.<sup>2</sup> In the Northwest, stagnation in the data indicates a growing gap between the AI/AN death rate and that for the general population might be widening in recent years. These data document the fact that despite the considerable gains that Tribes have made at addressing health disparities, that in some instances these gains are reversing themselves that the health of Indian people could be getting worse.<sup>3</sup>

### Recommendation: Maintain Current Services

The fundamental budget principle for Northwest Tribes is that the basic health care program must be preserved by the President's budget request and Congress. Preserving the IHS base program by funding the current level of health services should be a fundamental budget principle of Congress. Otherwise, how can unmet needs ever be addressed if the existing program is not maintained? Current services estimates' calculate mandatory costs increases necessary to maintain the current level of care. These "mandatory" are unavoidable and include medical and general inflation, federal and tribal pay act increases, population growth, and contract support costs.

Our analysis of the IHS budget indicates it will take at least \$304 million in FY 2013 to maintain the current levels of health care provided by the Indian health system. Anything less will result in Indian health programs having to absorb the mandatory costs of inflation, population growth and increased administrative costs. Add to this the accumulated amounts of past year's Contract Support Costs (CSC) shortfall of \$99.3 million, means that at least \$403 million is needed to fund current services. The President's request in FY 2013 (an increase of \$115.9 million) is simply not adequate to fund mandatory costs of current services.

The IHS Congressional Justification reports that the President's budget provides a \$115.9 million to support activities identified by the Tribes as budget priorities including increasing resources for the Contract Health Services (CHS) program; funding Contract Support Costs (CSC) shortfall; funding for health information technology activities, and; providing routine facility maintenance. The IHS Congressional Justification further explains that the overall increase is adequate to "sustain the Indian health system, expand access to care, and continue to improve oversight and accountability." This simply is not the case when the costs of maintaining current services are evaluated.

NPAlHB projections indicate that an additional \$287 million will be needed to maintain the program at the current levels of care. Inflation and population growth alone using actual rates of medical inflation extrapolated from the Consumer Price Index (CPI) and IHS user population growth predict that at least \$304 million will be needed to maintain current services. Compound this with the fact that nearly half of the proposed increase is for staffing and operation of six new facilities (\$49 million), which will only leave \$66 million to cover current services. Estimates developed by the IHS during the FY 2013 budget formulation process and used during Tribal Consultation to develop Tribal recommendations on the FY 2013 budget, estimate current services at \$136.8 million for pay act costs, inflation and population growth. These are IHS estimates and not Tribal estimates, thus there should be no question about the reliability of these projections since they were developed by IHS.

<sup>1</sup> FY 2000–2001 Regional Differences Report, Indian Health Service. available: [www.ths.gov](http://www.ths.gov).

<sup>2</sup> Ibid.

<sup>3</sup> Please note findings in, *The Health of Washington State: A Statewide Assessment of Health Status, Health Risks, and Health Care Services*, December 2007. Available: <http://www.doh.wa.gov/hws/HWS2007.htm>.

Thus, using IHS own estimates from their budget development process reveals that the President's request is not sufficient to "sustain the Indian health system or expand access to care."

The Administration's proposal does not provide any funding increases for inflationary costs except for the CHS program. The \$54 million increase for the CHS program is respectable but will fall short by \$10 million to maintain current services. Aside from this request for CHS, there is absolutely no additional funding requested for inflation, population growth or civilian and Tribal pay cost increases. NPAIHB estimates that at least \$213.4 million is needed to fund inflationary costs and an additional \$90.4 million is needed to cover population growth. Add to this the accumulated past year's esc shortfall of \$99.3 million, means that there is at least \$403.1million in mandatory costs that will have to be absorbed by IHS programs—most likely by cutting services to Indian people.

Unfortunately, IHS and Tribal health programs will now suffer the consequences of the current budget debate despite the duty and obligation of the United States to provide health services. Despite these challenges, NPAIHB recognizes the difficult fiscal environment that our country is experiencing. The current budget debate to curtail discretionary spending will have a severe effect on IHS and Tribal programs if they are not adequately funded. Respectfully we request that the Committee recommend that IHS and Tribal health programs receive a budget increase adequate to meet current services. We also recommend that the IHS appropriation be exempt from any reductions in discretionary spending. This request should be honored in recognition of the duty and obligation that the United States has to provide health care to Indian people. It is further compelling when one considers the severe health disparities that All AN people suffer.

#### **Per Capita Spending Comparisons**

The most significant trend in the financing of Indian health over the past ten years has been the stagnation of the IHS budget. With exception of a notable increase of 9.2 percent in FY 2001 and last year's 14 percent increase, the IHS budget has not received adequate increases to maintain the costs of current services (inflation, population growth, and pay act increases). The consequence of this is that the IHS budget is diminished and its purchasing power has continually been eroded over the years.

The IHS Federal Disparity Index (FDI) is often used to cite the level of funding for the Indian health system relative to its total need. The FDI compares actual health care costs for an IHS beneficiary to those costs of a beneficiary served in mainstream America. The FDI uses actuarial methods that control for age, sex, and health status to price health benefits for Indian people using the Federal Employee Health Benefits (FEHB) plan, which is then used to make per capita health expenditure comparisons. It is estimated by the FDI, that the IHS system is funded at less than 60 percent of its total need.<sup>4</sup>

#### **Conclusion**

We understand that our recommendations may seem unreasonable in current fiscal environment, however when you consider the significant health needs of Indian Country they are realistic. NPAIHB recognizes that in these challenging and difficult budget times, that we all must make sacrifices for the well-being of our country. Northwest Tribes however are among over 565 Federally-recognized Tribes that have made significant sacrifices for the good of all Americans, and the historic record on health disparities demonstrates that no one has sacrificed more than Native Americans. Thank you for this opportunity to provide our testimony on the FY 2013 IHS budget. Please do not hesitate to contact NPAIHB if we may be of further assistance.

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PREPARED STATEMENT OF RUSSELL GSCHWIND, DIRECTOR, NATIONAL IRONWORKERS TRAINING PROGRAM FOR AMERICAN INDIANS

I am asking for your help to secure funding for the Ironworkers Training Program for American Indians. This program provides training and job placement into the Ironworker trade and has been funded and supported by the Department of the Interior Bureau of Indian Affairs since 1972.

At this point we are asking to be put back on the Indian Affairs FY 2011 and FY 2012 budget.

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<sup>4</sup>Level of Need Workgroup Report, Indian Health Service, available: [www.ihs.gov](http://www.ihs.gov).

Through the years, the annual budget line for this program has been placed under community and economic development. The amount has ranged from \$500,000 to \$800,000. This funding allows for state of the art training at a modern training facility, provides students with subsistence stipends, job placement, and supplies—the tools necessary to start working in the Ironworker trade. The Bureau of Apprenticeship and Training (BAT) has recognized and certified the National Ironworkers Training Program for American Indians, allowing graduates direct entry into registered apprenticeship programs.

While all training programs are an attempt to help people become self sufficient and in the process become taxpayers, this program is a true success story. In just 11 weeks our graduates go from unemployed to starting an apprenticeship with above average wages, (\$13.00–\$20.00 per hour) fringe benefits and a future in the construction industry. The fringe benefits include health insurance for the family as well, This gives the graduate great pride in their accomplishments and the ability to take care of their family. On a personal level directing and teaching at this program I get to see that we are truly making a difference. The graduates leave here with the confidence and knowledge necessary to excel in the jobs they are placed in.

PREPARED STATEMENT OF DR. ROGER BORDEAUX, EXECUTIVE DIRECTOR, ASSOCIATION OF COMMUNITY TRIBAL SCHOOLS INC. (ACTS)

My name is Dr. Roger Bordeaux; I serve as the Executive Director of the Association of Community Tribal Schools Inc. (ACTS). I have been a Tribal School Superintendent for over 20 years and the Executive Director for 27 years.

The tribal school movement started in 1966 with Rough Rock Demonstration School. Now there are over 28,000 students in tribal elementary and secondary schools. The schools are in the states of Maine, Florida, North Carolina, Mississippi, Louisiana, South Dakota, Minnesota, North Dakota, Michigan, Iowa, Wisconsin, Kansas, Wyoming, Oklahoma, Montana, California, Washington, Idaho, Nevada, Arizona, and New Mexico. ACTS represents a significant number of the 125+ tribally controlled elementary and secondary schools. ACTS's mission is to "assist community tribal schools toward their mission of ensuring that when students complete their schools they are prepared for lifelong learning and that these students will strengthen and perpetuate traditional tribal societies."

**49,000 Indian children are suffering and in some cases not succeeding because of Bureau of Indian Education lack of finance leadership and management**

The nearly 49,000 (source: [www.bie.edu/ido/groups/abie/documents/sexVide012921.pdf](http://www.bie.edu/ido/groups/abie/documents/sexVide012921.pdf)) enrolled students in the BIE funded schools have lived through a stagnant economy over the last 5 years and in many cases are being housed in old dilapidated buildings in need of repair or replacement. The children in the BIE funded schools have been forced to take on more than their fair share of the stagnant economy. While costs for school lunch food, gas, fuel oil, electricity, diesel fuel, paper products, etc. have increased, from 11% Consumer Price Index (<http://www.bls.gov/cpi/tables.htm>) to over 40% for gasoline, every source of revenue from the Bureau of Indian Education including ISEP, Transportation, Facility Operation, and Facility Maintenance have not increased and in most cases have decreased.

The cost of diesel fuel (Source: [www.eia.gov](http://www.eia.gov)) that school buses use, has increased by over 41% in the last 4 years and the revenue for BIE Student Transportation Revenue has decreased by nearly half a percent. Another example is the cost of unleaded gasoline, which increased by 35% during the same period. The cost of Fuel Oil, which many school building use, has increased by over 30% in the last four years and the revenue for Facility Operation and Maintenance has decreased by half a percent. The Consumer Price Index has increased by over 11% in the last four years and the revenue for ISEP has decreased by half a percent.

HERE IS WHAT WE ARE REQUESTING

1. Restore Residential Education Placement Program funds, \$4,000,000. This Program Element provides funding for BIE eligible students who are temporarily placed in residential facilities for Special Education, Alcohol/Drug Abuse, and Court Ordered placements.
2. Restore the Construction – Education Construction Activity to the FY 2010 levels. The BIA reports a \$ 70,000,000 annual facility deterioration rate and also reports a \$3.4 billion school replacement need.

3. Decrease - These funds are currently used to control the schools and hamper progress, the BIE uses these Program Elements funds to dictate [use Reading and Math programs that do not work according to <http://ies.ed.gov/ncee/wwc>] what schools should do to improve assessment scores based on AYP requirements, and has nothing to do with school improvement. The funds should go to the local schools and let them decide what works. The funds should be moved to ISEP, Transportation, Facility Operations, Facility Maintenance, and Tribal Grant Support Costs:

BIE-Elementary/Secondary Programs-ISEP Program Adjustments	\$ 5,302,000
BIE-Elementary/Secondary Programs-Education Program Enhancements	\$ 12,653,000
Total	\$ 17,955,000

4. Restore and/or increase (Part of a 5 year phased plan to fully fund Basic School Programs for 49,000 children):

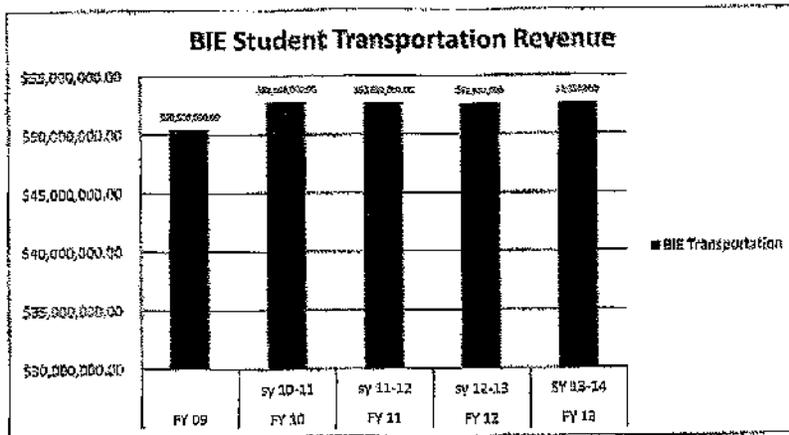
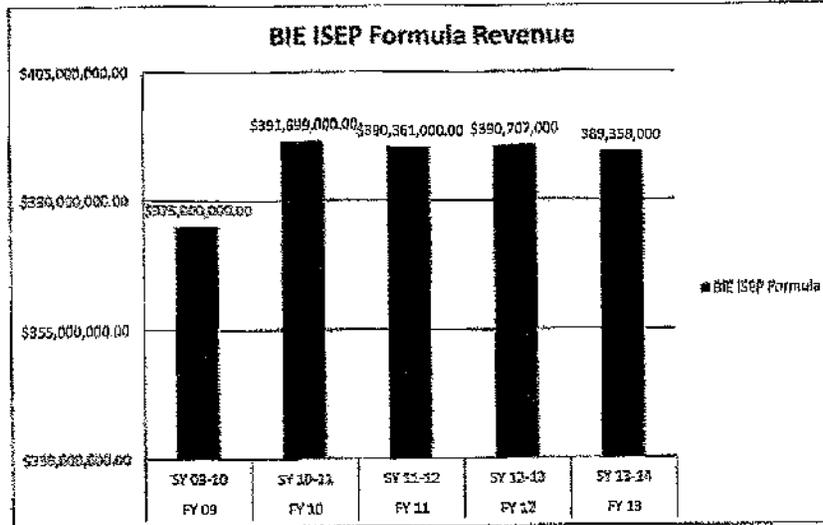
BIE-Elementary/Secondary Programs-ISEP Formula Funds	\$ 10,858,000
BIE-Elementary/Secondary Programs-Student Transportation	\$ 4,212,000
BIE-Elementary/Secondary Programs-Facility Maintenance	\$ 2,254,000
BIE-Elementary/Secondary Programs-Facility Operations	\$ 6,737,000
BIE-Elementary/Secondary Programs-Tribal Grant Support Costs	\$ 4,627,000
Sub-Total additional need for nearly 49,000 children	\$ 28,688,000
Less requested decrease	\$ 17,965,000
Total requested increase for FY 13	\$ 10,723,000

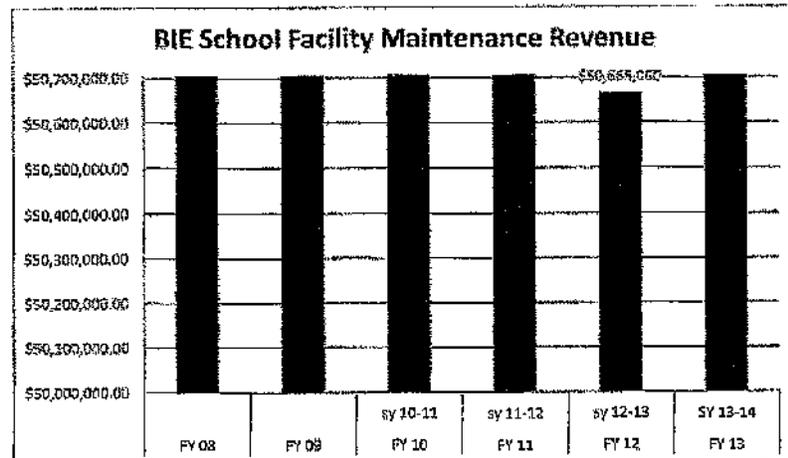
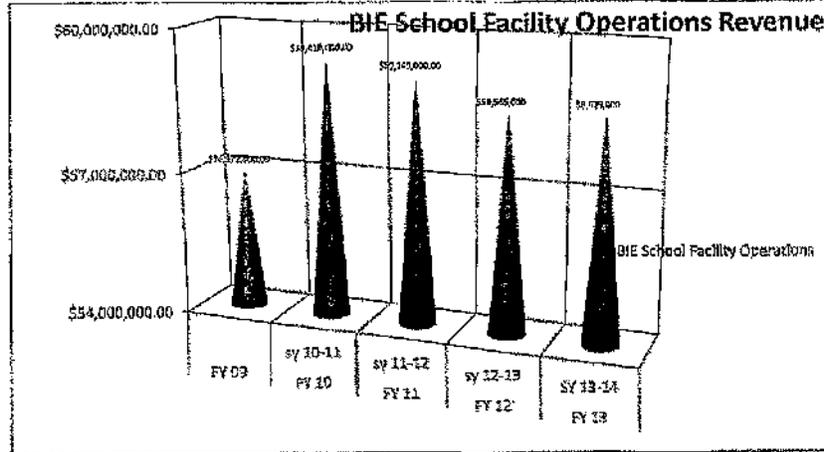
5. Eliminate the following Administrative Provisions language to allow current schools to expand grade level offerings and allow tribes to apply to operate a Grant School:

*No funds available to the Bureau shall be used to support expanded grades for any school or dormitory beyond the grade structure in place or approved by the Secretary of the Interior at each school in the Bureau school system as of October 1, 1995. Appropriations made available in this or any prior Act for schools funded by the Bureau shall be available, in accordance with the BIE funding formula, only to the schools in the Bureau school system as of September 1, 1996 and to any school or school program that was re-instated in FY 2012.*

6. Change language, with insert, to allow additional appropriations for Tribal Grant Support Costs:

*"Provided further, That notwithstanding any other provision of law, including but not limited to the Indian Self-Determination Act of 1975, as amended, and 25 U.S.C. 2008, not to exceed \$ 52,872,000 within and only from such amounts made available for school operations shall be available for grant support costs associated with ongoing grants entered into with the Bureau prior to or during fiscal year 2013 for the operation of Bureau-funded schools, and up to \$300,000 within and only from such amounts made available for administrative cost grants shall be available for the transitional costs of initial administrative cost grants to grantees that assume operation on or after July 1, 2012, of Bureau-funded schools"*





PREPARED STATEMENT OF DAVID M. GIPP, PRESIDENT, UNITED TRIBES TECHNICAL COLLEGE (UTTC)

SUBMITTED TO THE SENATE INTERIOR, ENVIRONMENT AND RELATED AGENCIES APPROPRIATIONS SUBCOMMITTEE—MARCH 16, 2012

For 43 years, United Tribes Technical College (UTTC) has provided postsecondary career and technical education, job training and family services to some of the most impoverished, high risk Indian students from throughout the nation. We are governed by the five tribes located wholly or in part in North Dakota. We are not part of the North Dakota state college system and do not have a tax base or state-appropriated funds on which to rely. We have consistently had excellent retention and placement rates and are a fully accredited institution. *Bureau of Indian Education funds represent about half of our operating budget and provide for our core instructional programs.* The requests of the UTTC Board for the FY 2013 Bureau of Indian Education (BIE)/Bureau of Indian Affairs (BIA) budgets are as follows:

- \$7 million in BIE funding for UTTC for our Indian Self-Determination Act contract, which is \$2.5 million over our FY 2012 level and the President's FY 2013 request. These funds, authorized under Title V of the Tribally Controlled Colleges and Universities Act, constitute our base funding. The funds are in the Tribal Technical Colleges account.
- One-time funding to forward fund United Tribes Technical College and Navajo Technical College who were inadvertently left out of the forward funding of the tribal colleges in FY 2010. This one time funding would be three quarters of the FY 2012 appropriation.
- Congressional support for a tribally-administered law enforcement training center, with focus on the vastly underserved Northern Plains area.
- \$73.5 million for our 27 sister tribal colleges funded under Titles I, II, and III of the TCU Act, to fund them at the FY 2010 per Indian student level. UTTC does not receive appropriations under these titles.

### **Base Funding**

UTTC administers its BIE funding under an Indian Self-Determination Act agreement, and has done so for 35 years. Funds requested above the FY 2012 level are needed to: (1) maintain 100 year-old education buildings and 50 year-old housing stock for students; (2) upgrade technology capabilities; (3) provide adequate salaries for faculty and staff (who did not receive a cost of living increase this past year and who are in the bottom quartile of salary for comparable positions elsewhere); and (4) fund program and curriculum improvements.

Acquisition of additional base funding is critical as UTTC has more than tripled its number of students within the past eight years while actual base funding for educational services, including Carl Perkins Act funding, have not increased commensurately (increased from \$6 million to \$8 million for the two programs combined). Our BIE funding provides a base level of support while allowing the college to compete for desperately needed discretionary contracts and grants leading to additional resources annually for the college's programs and support services.

### **Forward Funding**

There was a *glitch in the FY 2010 appropriations process* which resulted in UTTC (and Navajo Technical College or NTC) not receiving BIE forward funding. There is authority for forward funding for tribal colleges under the Tribally Controlled Colleges and Universities Act, 25 USC 1810(b)(1) and (2). This authority applies to all colleges funded under that Act, including UTTC and NTC. When the Administration requested \$50 million for forward funding its FY 2010 budget, they asked for it under the line item of "tribally controlled colleges and universities"—that line item includes 27 tribally controlled colleges. However, we are funded under a different line item which is "tribal technical colleges" and thus when Congress provided the requested \$50 million for forward funding, UTTC and NTC were left out.

Forward funding requires a one-time extra appropriation of three-quarters of a year's funding; hence, *we are requesting, in addition to our regular FY 2013 appropriation, \$3,397,485 to forward fund United Tribes Technical College* (75 percent of \$4,529,981, the FY 2010 BIE appropriation for UTTC, is \$3,397,485). The total BIE FY 2012 appropriation for "tribal technical colleges" was \$6,761,165 (\$4,529,981 for UTTC and \$2,231,184 for NTC). *To forward fund both institutions would require \$5,070,873 in addition to the regular FY 2013 funds.*

### **Northern Plains Indian Law Enforcement Academy**

We ask that Congress seriously look at the problem of addressing crime in Indian Country with an eye toward establishment of a campus-based academy for training of law enforcement officers in the Northern Plains area of Indian Country. There are cultural and legal reasons why such training should be tribally directed in order to be appropriate for the realities of tribal communities. At the same time, we realize that state and national training resources have an important role in this new endeavor. We note that the Senate Committee on Indian Affairs held hearings on law enforcement needs in Indian Country in the 110th and 111th Congresses.

We are upfront in our interest to have UTTC be the site of such an endeavor. We have a Memorandum of Understanding with the BIA and the American Indian Higher Education Consortium to provide "supplemental" in-service training to BIA and tribal police. This agreement is working out modestly well, but we need this effort to be expanded.

At this point, the BIA is depending on the basic training provided by state academies to supplement what is provided at the BIA Police Academy in Artesia, New Mexico, with additional "bridge" training for BIA and Tribal police officers being

provided at Artesia and soon, we hope, at UTTC. But we firmly believe that UTTC is also well positioned to be a site where both basic and supplemental training can be provided. Among other reasons, the BIA Academy at Artesia can train only 3 classes of 50 persons annually. An academy at UTTC would allow tribal people in the Great Plains and other nearby regions a more affordable choice of training locations, minimizing the distance and long separation of trainees from their families.

In short, the BIA should be utilizing and enhancing the resources of UTTC to make a real difference in the law enforcement capability in Indian Country. Of note is that we now offer a bachelor degree in Criminal Justice and can offer college credit to trainees. Our facilities include the use of a state-of-the-art crime scene simulator. Maintaining safe communities is a critical component of economic development for our Tribal Nations, and local control of law enforcement training resources is a key part of that effort.

SOME IMPORTANT FACTS ABOUT UTTC: WE HAVE:

- A dedication to providing an educational setting that is geared to the full range of student needs—educational, cultural, necessary life skills.
- Renewed unrestricted accreditation from the North Central Association of Colleges and Schools, for the period July 2011 through 2021, including authority to offer all of our full programs on-line.
- A wide array of services including a Child Development Center, family literacy program, wellness center, area transportation, K–8 elementary school, tutoring, counseling, family and single student housing, and campus security.
- A semester retention rate of 82 percent.
- A graduate placement rate of 83 percent (placement into jobs and higher education).
- A projected return on federal investment of 20–1 (2005 study).
- Over 30 percent of our graduates move on to four-year or advanced degree institutions.
- A current student body from 63 tribes who come mostly from high-poverty, high unemployment tribal nations in the Great Plains; many students have children and dependents.
- An unduplicated count of undergraduate degree-seeking students and continuing education students of 1,200.
- 76 percent of our undergraduate students receive Pell Grants.
- 21 two-year degree programs, twelve certificate and three accredited bachelor degree programs (Elementary Education; Business Administration; and Criminal Justice).
- An expanding curricula to meet job-training needs for growing fields including law enforcement and health information technology. We have new short-term workforce training programs for welding technology (in particular demand in ND due to the oil boom), electrical, energy auditing, and Geographic Information System technology.
- A dual-enrollment program targeting junior and senior high school students, providing them an introduction to college life and offering high school and college credits.
- A critical role in the regional economy. Our presence brings at least \$34 million annually to the economy of the Bismarck region.
- A workforce of 360 people.
- An award-winning annual powwow which last year had participants from 60+ tribes and international indigenous dance groups, drawing over 10,000 spectators.

**The Duplication or Overlapping Issue**

The Government Accountability Office in March of 2011 issued two reports regarding federal programs which may have similar or overlapping services or objectives (GAO–11–474R and GAO–11–318SP). Funding from the BIE and the Department of Education's Carl Perkins Act for Tribally Controlled Postsecondary Career and Technical Education were among the programs listed in the reports. *The full GAO report did not recommend defunding these programs; rather, it posed the possibility of consolidation of these programs to save administrative costs.* We are not in disagreement about possible consolidation of our funding sources, so long as program funds are not cut.

BIE funds represent about 54 percent of UTTC's core operating budget. The Perkins funds supplement, but do not duplicate, the BIE funds. *It takes both sources of funding to frugally maintain the institution.* In fact, even these combined sources do not provide the resources necessary to operate and maintain the college. We actively seek alternative funding to assist with academic programming, deferred maintenance, and scholarship assistance, among other things.

We reiterate that UTTC and other tribally-chartered colleges are not part of state educational systems and do not receive state-appropriated general operational funds for their Indian students. The need for postsecondary career and technical education in Indian Country is so great and the funding so small, that there is little chance for duplicative funding.

There are only two institutions targeting American Indian/Alaska Native career and technical education and training at the postsecondary level—UTTC and NTC. Combined, these institutions received less than \$15 million in FY 2012 federal operational funds (\$8 million from Perkins; \$6.7 million from the BIE). That is not an excessive amount for two campus-based institutions who offer a broad (and expanding) array of programs geared toward the educational and cultural needs of their students and who teach job-producing skills.

UTTC offers services that are catered to the needs of our students, many of whom are first generation college attendees and many of whom come to us needing remedial education. We also provide services for the children and dependents of our students. Although BIE and Section 117 funds do not pay for remedial education services, we make this investment through other sources of funding to help ensure that our students succeed at the postsecondary level.

Our Bureau of Indian Education and Perkins funds are central to the viability of our core postsecondary educational programs. Very little of the other funds we receive may be used for core career and technical educational program; they are competitive, often one-time supplemental funds which help us provide support services but they cannot replace core operational funding.

Thank you for your consideration of our requests.

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PREPARED STATEMENT OF DAVID M. GIPP, PRESIDENT, UNITED TRIBES TECHNICAL COLLEGE (UTTC)

SUBMITTED TO THE SENATE LABOR-HHS-EDUCATION APPROPRIATIONS SUBCOMMITTEE—  
MARCH 16, 2012

FY 2013 DEPARTMENT OF EDUCATION APPROPRIATIONS: CARL PERKINS ACT (TRIBALLY CONTROLLED POSTSECONDARY CAREER AND TECHNICAL INSTITUTIONS); HIGHER EDUCATION ACT (TITLE III); PELL GRANTS

For 43 years, United Tribes Technical College (UTTC) has provided postsecondary career and technical education, job training and family services to some of the most impoverished, high risk Indian students from throughout the nation. We are governed by the five tribes located wholly or in part in North Dakota. We are not part of the North Dakota state college system and do not have a tax base or state-appropriated funds on which to rely. We have consistently had excellent retention and placement rates and are a fully accredited institution. *Section 117 Carl Perkins Act funds represent about half of our operating budget and provide for our core instructional programs.* The requests of the United Tribes Technical College Board for FY 2013 is for Department of Education programs as follows:

- *\$10 million for base funding authorized under Section 117 of the Carl Perkins Act for the Tribally Controlled Postsecondary Career and Technical Institutions program (20 U.S.C. Section 2327). This is \$1.8 million above the FY 2012 level and the President's request. These funds are awarded competitively and are distributed via formula.*
- *\$30 million as requested by the Administration and the American Indian Higher Education Consortium for Title III-A (Section 316) of the Higher Education Act (Strengthening Institutions program). This is \$5 million over FY 2012 enacted.*
- *Maintain Pell Grants at the \$5,635 maximum award level.*
- *Support the proposed Community College to Career Fund.*

#### **Authorization**

United Tribes Technical College began operations in 1969. We realized that in order to more effectively address the unique needs of Indian people to acquire the academic knowledge and skills necessary to enter the work force we needed to ex-

pand our curricula and services. We were scraping by with small amounts of money from the Bureau of Indian Affairs, and so decided to work for an authorization in the Department of Education. That came about in 1990 when the Carl Perkins Act was reauthorized and it included specific authorization for what is now called the Tribally Controlled Postsecondary Career and Technical Institutions program (Section 117). The Perkins Act has been reauthorized twice since then—in 1998 and in 2006, with Congress each time continuing the Section 117 Perkins program.

SOME IMPORTANT FACTS ABOUT UNITED TRIBES TECHNICAL COLLEGE. WE HAVE:

- A dedication to providing an educational setting that takes a holistic approach toward the full spectrum of student needs—educational, cultural, and necessary life skills.
- Renewed unrestricted accreditation from the North Central Association of Colleges and Schools for the period July 2011 through 2021, including authority to offer all of our full programs on-line.
- Services including a Child Development Center, family literacy program, wellness center, area transportation, K–8 elementary school, tutoring, counseling and housing.
- A semester completion rate of 82 percent.
- A graduate placement rate of 83 percent (placement into jobs and higher education).
- A projected return on federal investment of 20–1 (2005 study).
- Over 30 percent of our graduates move on to four-year or advanced degree institutions.
- A current student body from 63 tribes who come mostly from high-poverty, high unemployment tribal nations in the Great Plains; many students have dependents.
- 76 percent of undergraduate students receive Pell Grants.
- 21 two-year degree programs, twelve certificates, and three bachelor degree programs (Elementary Education; Business Administration; and Criminal Justice).
- An expanding curricula to meet job-training needs for growing fields including law enforcement and health information technology. We have new short-term training programs for welding technology (in particular demand in ND because of the oil boom), electrical, energy auditing, and Geographic Information System technology.
- A dual enrollment program targeting junior and senior high school students, providing them an introduction to college life and offering high school and college credits.
- A critical role in the regional economy. Our presence brings at least \$34 million annually to the economy of the Bismarck region.
- A workforce of 360 people.
- An award-winning annual powwow which last year had participants from 60+ tribes and international indigenous dance groups, drawing over 10,000 spectators.

### **Funding Requests**

#### *Section 117 Perkins Base Funding*

Funds requested under Section 117 of the Perkins Act above the FY 2012 level are needed to: (1) maintain 100 year-old education buildings and 50 year-old housing stock for students; (2) upgrade technology capabilities; (3) provide adequate salaries for faculty and staff (who have not received a cost of living increase for the past year and who are in the bottom quartile of salary for comparable positions elsewhere); and (4) fund program and curriculum improvements.

Acquisition of additional base funding is critical as UTTC has more than tripled its number of students within the past eight years while actual base funding, including Interior Department funding, have not increased commensurately (increased from \$6 million to \$8 million for the two programs combined). Our Perkins funding provides a base level of support while allowing the college to compete for desperately needed discretionary contracts and grants leading to additional resources annually for the college's programs and support services.

*Title III–A (Section 316) Strengthening Institutions*

Among the Title III–A statutorily allowable uses is facility construction and maintenance. We are constantly in need of additional student housing, including family housing. We would like to educate more students but lack of housing has at times limited the admission of new students. With the completion this year of a new Science, Math and Technology building on our South Campus on land acquired with a private grant, we urgently need housing for up to 150 students, many of whom have families.

While UTTC has constructed three housing facilities using a variety of sources in the past 20 years, approximately 50 percent of students are housed in the 100-year-old buildings of the old Fort Abraham Lincoln, as well as in housing that was donated by the Federal Government along with the land and Fort buildings in 1973. These buildings require major rehabilitation. New buildings for housing are actually cheaper than trying to rehabilitate the old buildings.

*Pell Grants*

We support maintaining the Pell Grant maximum amount to at least a level of \$5,635. As mentioned above, 76 percent of our students are Pell Grant-eligible. This program makes all the difference in the world of whether these students can attend college.

*Community College to Career Fund*

We support the proposed Community College Career Fund, and understand that tribally controlled colleges will be eligible applicants. UTTC is ready with training—campus-based and on-line—to help meet the needs of high-demand businesses.

**Government Accountability Office Report**

As you know, the Government Accountability Office (GAO) in March of 2011 issued two reports regarding federal programs which may have similar or overlapping services or objectives (GAO–11–318SP of March 1 and GAO–11–474R of March 18). Funding from the Bureau of Indian Education (BIE) and the Department of Education's Perkins Act for Tribally Controlled Postsecondary Career and Technical Institutions were among the programs listed in the supplemental report of March 18. *The GAO did not recommend defunding these or other programs; in some cases consolidation or better coordination of programs was recommended to save administrative costs.* We are not in disagreement about possible consolidation or coordination of the administration of these funding sources so long as funds are not reduced.

Perkins funds represent about 46 percent of UTTC's core operating budget. The Perkins funds supplement, but do not duplicate, the BIE funds. *It takes both sources of funding to frugally maintain the institution.* Even these combined sources do not provide the resources necessary to operate and maintain the college and thus we actively seek alternative funding to assist with academic programming, deferred maintenance of our physical plant and scholarship assistance, among other things.

We reiterate that UTTC and other tribally-chartered colleges are not part of state educational systems and do not receive state-appropriated general operational funds for their Indian students. The need for postsecondary career and technical education in Indian Country is so great and the funding so small, that there is little chance for duplicative funding.

There are only two institutions targeting American Indian/Alaska Native career and technical education and training at the postsecondary level—United Tribes Technical College and Navajo Technical College. Combined, these institutions received less than \$15 million in FY 2012 federal operational funds (\$8 million from Perkins; \$7 million from the BIE). That is a modest amount for two campus-based institutions which offer a broad (and expanding) array of programs geared toward the educational, job-training, and cultural needs of their students.

UTTC offers services that are catered to the needs of our students, many of whom are first generation college attendees and many of whom come to us needing remedial education and services. Our students disproportionately possess more high risk characteristics than other student populations. We also provide services for the children and dependents of our students. Although BIE and Section 117 funds do not pay for remedial education services, we make this investment through other sources of funding to help ensure that our students succeed at the postsecondary level.

Perkins funds are central to the viability of our core postsecondary educational programs. Very little of the other funds we receive may be used for core career and technical educational programs; they are highly competitive, often one-time supplemental funds.

Thank you for your consideration of our requests.

