

NATIONAL CONGRESS OF AMERICAN INDIANS

NCAI TESTIMONY ON THE ADMINISTRATION'S FISCAL YEAR 2006 BUDGET REQUEST FOR INDIAN PROGRAMS

*Senate Committee on Indian Affairs
February 16, 2005*



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On behalf of the more than 250 member tribal nations of the National Congress of American Indians, we are pleased to present testimony on the Administration's Fiscal Year 2006 budget request for Indian programs. We look forward to working with this Committee to ensure that the critical programs and initiatives authorized and supported by this body are funded at levels which will ensure their long term effectiveness.

On February 7, President Bush submitted to Congress a \$2.57 trillion budget proposing a 2.1% increase in all foreign and domestic discretionary spending -- but that included level funding and numerous decreases for Indian programs, continuing the trend of consistent declines in federal per capita spending for Indians compared to per capita expenditures for the population at large. This year's budget request reduces effective funding for tribal governments and instead funds a trust reorganization that tribes have opposed, with proposed reductions for programs such as Tribal Priority Allocations, education, and contract support, housing and infrastructure and land consolidation

We are deeply disappointed that this budget does not support strong tribal self-government and self-determination. In many ways, tribal governments are exactly like state and municipal governments -- providing critical services, shaping values, and promoting jobs and growth. Though federal spending for Indians has lost ground compared to spending for the U.S. population at large, tribal self-government has proven that the federal investment in tribes pays off. According to a recent report by the Harvard Project on American Indian Economic Development, reservation communities have made remarkable socio-economic gains in the last decade and these gains are driven by the policy of tribal self-government. Between 1990 and 2000, income levels rose by 33 percent and the poverty rate dropped by 7 percent, with little difference between those tribes with gaming operations and those tribes without gaming.

Yet substantial gaps remain— real per capita income of Indians living on reservations is still less than half of the national average. Indian unemployment is still double the rest of the country. Thus, while the work of tribal self-determination is well underway, much work is left to be done. These long enduring socio-economic disparities, and the success of tribes in addressing them, warrant continued federal investment in tribal self-determination.

As Congress begins to shape the FY 2006 budget, NCAI urges Congress to honor its commitments to the Indian Nations and provide tribes with the necessary tools for continued progress through the promise of strong tribal self-government. We hope that Congress will work with tribes to see this priority better reflected in the budget process.

The Administration's proposed budget does not reflect the priorities of Indian Country as laid forth by the BIA/Tribal Budget Advisory Council, as well as by tribal leaders in budget consultations with IHS and other agencies. We ask that these recommendations be taken more closely to heart as the FY06 budget advances.

NCAI recognizes the need for data and reporting in this period of increasing accountability in federal programs. We have to show measurable results, and we ask for your assistance in finding the resources so Indian Country can collect and report on the data necessary to show both our successes and our challenges. NCAI recently launched the National Center for American Indian Research and Policy, which has the potential to provide tribally driven data collection and reporting, so long as sufficient resources are available.

In addition to addressing the troubling general trend of decreased federal fulfillment of trust obligations to tribes, we want to highlight three key concerns within the proposed budget that we hope this Committee will work to address in FY 2006:

- Tribal leaders have identified law enforcement, justice, and homeland security as key concerns in the FY 2006 budget. As the Department of Justice implements drastic programmatic changes, NCAI calls on Congress to ensure **law enforcement activities in Indian Country** are supported through sufficient funding, essential for the full realization of successful tribal governing. The national BIA/Tribal Budget Advisory Council through formal motion has made law enforcement, justice, and tribal courts its number one priority in 2005.
- **Self Determination programs** throughout the budget—initiatives this Administration has expressed consistent support for—have not only failed to receive needed funding increases, but face cuts which will deeply hobble tribes' ability to effectively assume local control in the face of shrinking TPA budgets, inadequate 638 pay cost increases, insufficient contract support funding, and grossly under-funded Administrative Cost Grants;
- Precious resources continue to be diverted to a **Department of Interior reorganization** which tribes have opposed and which fails to take into account the need for local flexibility or the results of the “to be” study which was recently completed by the Department. Until a better plan which reflects consultation with the tribes—who know best what works in trust management at the local level—a moratorium should be placed on funding further reorganization. A much more effective use of funds would be to focus on funding for **Land Consolidation**. No increases were requested for the Indian land consolidation program from the FY 2005 enacted level, which would be about a third of the authorized level for FY 2006. NCAI strongly supports this program, an investment in which will do more to save on future trust administration costs than any other item in the trust budget.

This testimony will assess the President's proposed FY 2006 budget for Indian programs by Department starting with the Department of Interior.

BUREAU OF INDIAN AFFAIRS/OFFICE OF SPECIAL TRUSTEE

The Bureau of Indian Affairs budget request is \$2.2 billion, a level \$108.2 million below the FY 2005 enacted amount. The Operation of Indian Programs would receive \$1.9 billion, a \$1.9 million decrease. In the BIA budget, the costs of OST-BIA reorganization are effectively punishing tribes for the Department's own trust mismanagement—a double injury to individual and tribal trustees hurt by this mismanagement. Between 1996 and 2005, \$2.9 billion has been spent on the management and reform of Indian trust programs. Key areas of the BIA budget, such as Tribal Priority Allocations and initiatives that support education and economic development, remain deeply under-funded. NCAI does however commend the Administration's requested increases for law enforcement in the BIA budget. These welcome increases will help empower Indian Country to address tragic and accelerating crime rates.

Supporting Self-Determination

Tribal Priority Allocations (TPA). The Administration requests a 10.7% decrease of \$9.4 million for TPA funding for FY 2006. TPA funds are the main source of tribal resources to provide governmental services at the local level for most tribes. Funding for this account supports ongoing services at the local tribal

level for such critical needs as housing, education, natural resource management, and tribal government services. Since tribes have flexibility to use TPA funds to meet the unique needs of their individual communities, these funds are an essential resource for tribes to exercise their powers of self-governance. This account, key to tribal self-determination, has been deeply under-funded for years. According to a 2003 report by the U.S. Commission on Civil Rights, the percentage of BIA funds provided to TPA has steadily dwindled since 1998. Between FY 1998 and FY 2003, TPA spending power has decreased by \$36.5 million or 4.4 percent. Unfortunately, the proposed FY 2006 budget continues to undermine the ability of tribes to effectively govern and serve their communities. The largest reductions in TPA affect Johnson O'Malley Grants, with an \$8.8 million proposed reduction, and Welfare Assistance, with a \$6.4 million decrease.

Operation of Indian Programs Budget Restructuring and TPA Reforms. NCAI understands that BIA is proposing a revised budget structure for the Operation of Indian Programs account, which would group programs by function rather than organization. The revised structure will also reduce the number of line items by 50 percent. NCAI urges continued transparency in the budget process as the new BIA budget structure begins to be implemented. The Administration has also proposed an evaluation and reform of the allocation of funds in the TPA program to target the areas of greatest need. NCAI supports essential consultation between tribes, the BIA, and Congress on the proposed budget restructuring before the implementation of the BIA budget restructuring and also consultations with tribes on the proposed reforms for the allocation of TPA funds.

Self-Determination Pay Cost Increases. NCAI recommends that 638 Pay Costs be restored to full funding for tribes in the FY 2006 Interior Appropriations budget. In the past, the 638 Pay Cost account has matched what the Administration and Congress provide for federal workers employed by federal agencies each year. But tribes received only 15% of their 638 Pay Cost funding in FY 2003 and about 30% in FY 2004. As a result of these decreases, tribes' core service funding is effectively rendered far less than nearly a decade ago. This under-funding seriously undermines tribes' ability to provide critical services promoting the public safety, security, and well being of communities already suffering some of the worst living standards in America. Some federal agencies may be able to absorb such an onslaught of cuts, but tribes—wrestling with well-documented funding shortfalls to begin with—cannot. The Pay Cost disparity between federal and tribal employees seriously undermines the federal Indian policy of self-determination and self-governance.

Contract Support Costs (CSC). Contract Support Cost (CSC) funds are the key to self-determination for tribes—these funds ensure that tribes have the resources that any federal contractor would require to successfully manage decentralized programs. NCAI Resolution #ABQ-03-46 requests full funding of all contract support requirements and ask Congress to fully budget and to fully appropriate tribal contract support costs.

Trust Reorganization and the BIA Budget

The budget request includes a significant initiative to increase funding for trust management within the BIA and the Office of Special Trustee. The ongoing reorganization of the Bureau of Indian Affairs is creating a top-heavy bureaucracy that does not meet the real need for trust management on the reservations. Trust management requires people and systems on the ground in resource management, inspections, enforcement, appraisals, probate, and title. This work cannot be done solely by bureaucrats and accountants in Washington, DC or Albuquerque. Each region and reservation has unique needs, and tribes in each region of the country are preparing plans to make the reorganization funding more effective and equitable.

The 2005 enacted appropriations for Interior and the President's proposed FY 2006 budget continue to alarm tribal leaders. Since FY 2004, Central Office Operations have received the largest increases in the BIA budget: the 2006 requested amount would be an 8% increase over the FY05 enacted amount and a

considerable 71% increase over the FY04 level for a total request of \$151.5 million. Regional Office Operations however have decreased by 35% from the FY04 amount in the FY 2006 request. The Office of Special Trustee, which does only accounting and oversight, received a 40% increase of \$75.8 million – to \$269.4 million.

Tribal leaders have repeatedly emphasized that funding needed to correct problems and inefficiencies in DOI trust management must not come from existing BIA programs or administrative monies—yet once again, this year’s budget request reduces effective funding for tribes to fund a reorganization that tribes have opposed. It is critical that the Department request additional funding from Congress to correct the internal problems created through their administrative mistakes rather than depleting existing, insufficient BIA program dollars for these purposes.

Indian Land Consolidation. Tribal leaders continue to stress that Indian land consolidation is critical for addressing the problem of fractionation, which creates an accounting nightmare and enormous difficulties for owners in putting land to beneficial use. Land consolidation will improve federal administration and management, and saves substantial federal dollars that currently go to tracking tiny interests. The President’s budget only requests \$34.5 million, a little more than one-third the amount authorized by Congress for FY 2006. NCAI urges an appropriation of \$95 million for Indian land consolidation in FY2006, the full amount authorized by Congress and approved by OMB in last year’s Indian Land Consolidation Act Amendments. This investment in land consolidation will do more to save on future trust administration costs than any other item in the trust budget.

Alcohol and Substance Abuse Prevention. NCAI is concerned that the BIA Office of Alcohol and Substance Abuse has been eliminated from the FY 2006 BIA budget line item in the President’s budget. Alcohol and drug use, including poly drug-use, are endemic among American Indians and Alaskan Natives, and are intertwined with all other socio-economic conditions, including academic performance and educational attainment, labor force stability, successful business operations, prevention of domestic violence, child abuse and neglect, law enforcement, infrastructure development, and so on. These conditions impede the development of strong tribal governments, tribal communities and self-determination in Indian Country. The most effective way to impact alcohol and substance use in a community is to increase protective factors. When prevention fails or is nonexistent in a community then remediation and rehabilitation are required, which are very costly compared to prevention interventions. NCAI supports appropriate consultation so that tribes receive sufficient resources to address the destructive prevalence of alcohol and substance abuse as well as the unique challenges facing Indian Country.

Indian Education in the Bureau of Indian Affairs

On April 30, 2004, President Bush signed an Executive Order on American Indian and Alaska Native Education (E.O. 13336) whose purpose is to assist American Indian and Alaska Native students to meet the challenging academic standards of the No Child Left Behind Act in a manner consistent with tribal traditions, languages and cultures. NCAI has high expectations that the Executive Order will lead to specific proposals to enhance Indian education under the NCLB. Not only will it take extensive consultation with tribes, but sufficient Federal funding is absolutely critical to fulfill the promise of the new Executive Order and of the NCLB. NCAI is concerned, however, that the Bureau of Indian Affairs overall funding for Education programs in the proposed budget would fall approximately 11% from the 2005 enacted levels. Education funds in TPA would decline by 10 %, Continuing Education in Other Recurring Programs by 18.8%, and Education Construction by a dramatic 34.4% from the 2005 enacted levels. As was noted in a September 2003 GAO report on BIA schools, the BIA student population is characterized by factors that are generally associated with higher costs in education. Most students live in poverty, more than half are limited in English proficiency, and a substantial number have disabilities.

Proposed funding for Administrative Cost Grants—the equivalent of contract support for tribally operated schools—fails to come close to addressing the drastic shortfalls faced in this account. Current funding is approximately 70% of the formula required by law for essential Administrative Cost Grants that support sound management of tribally-operated schools. The President’s budget would provide level funding for this critical line item.

With the added burden of implementing the requirements of the No Child Left Behind Act, additional funding for Indian School Equalization Program is absolutely critical to the continuing function of BIA schools.

NCAI urges restoring funding levels for school construction and facility repairs programs in the BIA school construction account, which was cut by \$31.6 million in FY 2005 and another \$89.5 million in the 2006 request, for a total reduction of \$121.1 million from the FY 2004 enacted amount. The inadequacy of Indian education facilities is well documented and widely known. Although the restored funding may not be completely sufficient to relieve the backlog of construction and repair needs, the level appropriated will still enable tribes to continue efforts to provide their children with proper educational environments that promote and nurture student development.

Tribal Education Departments. The key partners responsible for educating tribal students are the federal, state, tribal, and local governments. The most active partners have been the federal government’s Bureau of Indian Affairs and state and local governments that support public schools. Recent research calls for more tribal involvement and control in the education of tribal students as a way to improve Indian education. Yet, the least active and recognized sovereign government at the elementary and secondary levels has been at the tribal level. Tribal Education Departments are official components of tribal governments and have a vested interest in improving the education of their members to become productive citizens. Tribal youth are viewed as a precious resource vital to the future of a tribe. Achieving tribal control of education through Tribal Education Departments would be consistent with the Indian self-determination, a policy proven successful repeatedly.

Federal support for Tribal Education Departments has been authorized in several federal statutes including: the No Child Left Behind Act, the Indian Self-Determination and Education Assistance Act, Improving America’s Schools Act, and others. Despite these authorizations the federal government has never appropriated federal funds for these programs. NCAI supports \$5 million in appropriations in FY 2006 for Tribal Education Departments so they can assume the responsibilities that Congress envisions for them.

Tribally Controlled Colleges and Universities

Title I (26 TCUs). Since 1981, when the Tribal College Act was first funded the number of tribally controlled colleges funded under Title I has quadrupled, growing from 6 to 26 institutions and it is expected that three to five new tribal colleges will be eligible for Tribal College Act funding in the near future. In addition to the increased number of tribal colleges, enrollments have increased over 330 percent between 1981 and 2004. Thanks to a greatly appreciated \$5 million increase in FY05 appropriations these colleges are receiving \$4,447 per Indian student towards their institutional operating budgets. Although this is the highest per student level realized to date, it is still far short of the \$6,000 per ISC authorized. When considering inflation, the TCUs need to be fully funded at the authorized level (\$6,000 per ISC) to simply receive a level of funding with the same buying power as the initial FY 1981 appropriation of \$2,831 per ISC.

Title II. Title II applies specifically to Diné College. Title II authorizes funding levels to meet the College's operation and maintenance, including but not limited to administrative, academic, and operational costs. Congress established this need-based funding scheme to address specific conditions on the Navajo Nation. Diné College would need an additional \$6.5 million to meet its annual demonstrated need.

Institutional Operations Request. \$57.8 million, an increase of \$17 million, is needed to support the day-to-day operations of 26 tribal colleges under Title I of the Act at the authorized \$6,000 per ISC. In addition, NCAI supports adequate funding of the institutional operating budgets for the six other fully-accredited TCUs that are funded under separate authorities. These institutions include: Haskell Indian Nations University (KS); Southwestern Indian Polytechnic Institute (NM); Crownpoint Institute of Technology (NM); United Tribes Technical College (ND); and Institute of American Indian Arts (NM).

Public Safety and Justice

Law Enforcement. NCAI highly commends the Administration's requested increases for BIA law enforcement in the proposed budget. Communities look to local leadership to ensure public safety, protect their citizens, respond to emergencies, and establish order from chaos. Tribal governments serve as the primary instrument of law enforcement and emergency response for the more than fifty million acres of land that comprise Indian country, 2% of the United States. According to a Bureau of Justice Statistics 2004 report, violent crime committed against American Indians is more than twice the national average and more likely committed by a perpetrator of a different race. The Department of Justice reports that one in three American Indian and Alaska Native women will be raped in her lifetime—triple the rate for the rest of the country. 9 out of 10 American Indian victims of rape or assault had assailants who were non-Indian. Current funding for tribal law enforcement and first responders lags well behind that for non-tribal law enforcement.

Thus, NCAI strongly supports all proposed increases for BIA law enforcement as a start to addressing the dire challenges facing law enforcement, tribal courts, and detention facilities in Indian Country. The increases to BIA law enforcement total \$19.2 million and are in response to the September 2004 Office of Inspector General report on Indian Detention facilities as well as the expiring Department of Justice Community Oriented Policing Services grants program. 123 COPS positions are slated to expire in 2006, which totals 759 expired law enforcement positions between 2004 and 2006, according the 2005 BIA budget justification. The Administration requests an additional \$2.5 million to expand BIA law enforcement programs in areas where violent crime is most severe. NCAI urges Congress and the President to ensure that federal and tribal law enforcement activities on Indian reservations are not curtailed as COPS funding expires.

Detention Facilities. In its September 2004 report, the U.S. Department of Interior Inspector General's Office informed the Department of the deplorable conditions at some of the facilities leading to life-threatening situations, concluding that the BIA's detention program is a national disgrace with conditions comparable to those found in Third World countries. The report documented severe understaffing, with insufficient training for the staff in place; overcrowded facilities; unsanitary and unsafe facilities, with significant maintenance backlogs; haphazardly managed funding that is virtually unaccounted for; and the placement of juveniles in adult detention facilities. Tribal leaders emphasize that Federal funding shortfalls have made it virtually impossible for tribes and the BIA to keep abreast basic maintenance, training, and other functions at detention facilities. The FY06 budget request proposes increases of \$4 million for operational costs for new detention centers; \$3.2 million for operations and maintenance of existing detention centers; and \$5 million to outsource detention of detainees to local jurisdictions in places where BIA facilities are non-compliant. An additional \$4.4 million is proposed for facilities improvement and repair of detention centers in the BIA Construction account. NCAI supports these badly needed increases to begin addressing the deficiencies and backlog in tribal detention centers.

Tribal Courts. Violent crime rates, while declining nationally, have increased substantially in Indian Country. Tribal judicial systems are the primary and most appropriate institutions for maintaining order in tribal communities. Congress recognized this need when it enacted the Indian Tribal Justice Act – specifically finding that “tribal justice systems are an essential part of tribal governments and serve as important forums for ensuring public health and safety and the political integrity of tribal governments” and “tribal justice systems are inadequately funded, and the lack of adequate funding impairs their operation.” Congress re-

affirmed this commitment in reauthorizing the Act in 2000 for 7 years. While the Indian Tribal Justice Act promised \$58.4 million per year in additional funding for tribal court systems starting in FY 1994, tribal courts have yet to see any funding under this Act. Since Congress enacted the Indian Tribal Justice Act, the needs of tribal court systems have continued to increase without any corresponding increase in funding for tribal justice systems. In fact, the Bureau of Indian Affairs funding for tribal courts has actually decreased substantially since the Indian Tribal Justice Act was first enacted in 1993. NCAI urges the Congress to fully fund and appropriate adequate funds to fully implement the "Indian Tribal Justice Technical and Legal Assistance Act of 2000." NCAI also supports the continued funding of the Department of Justice's Bureau of Justice Assistance Tribal Court Assistance Program.

Natural Resources

Indian Forests and Natural Resources. Indian forests are a vital part of tribal life. Timber production, grazing, and wildlife management provide revenue and jobs for Indians and enhance the economic life of tribes and surrounding communities. Forests play an important role in tribal subsistence lifestyles, medicine, and religious observances. Indian Forest Management Assessment Team Report-I was issued in November 1993; IFMAT-II was issued in December 2003. The Indian Forest Management Team (IFMAT-I) identified a large gap between funding provided by the federal government for national forests and federal government funding provided for Indian forests. In 2001, Indian forestry received about two-thirds the amount per acre as invested in the national forests. The IFMAT-II report finds that BIA base Forestry funding has actually declined in inflation-adjusted dollars from \$3.29 an acre in 1991 (exclusive of fire funding) to \$2.83 an acre in 2001.

NCAI urges 1) an increase to the BIA Forestry base funding by \$119.6 million; 2) integration of Interior fire funding for BIA lands into the BIA Forestry base budget in Non-Recurring Programs, Resources Management, as per the Primary Recommendations of the independent IFMAT-II report on Indian trust forests and forest management.

Fish, Wildlife, and Habitat. The Tribal Wildlife Grants and Tribal Landowner Incentive Programs through the Fish and Wildlife Service in the Department of Interior have proven to be an invaluable source of funding for the conservation and management of Tribal fish, wildlife, and habitat. NCAI requests the appropriations from the provisions of the Fish and Wildlife Act of 1956 and Fish and Wildlife Coordination Act for wildlife grants generally increase by 10% (\$76.0 million) and this increase raise Tribal eligibility from 8.5% to 10% (\$7.6 million). NCAI recommends that the general allocations from the Land and Water Conservation Fund for the Landowners Incentive Program be raised by 10%.

The primary funding path and operational foundation for all Tribal fish and wildlife management is directed through the BIA Wildlife and Parks program at \$33.2 million, but these funds have undergone 1% cuts annually for the past 3 years. NCAI urges a 3% increase to \$34.2 million in FY 2006 to avert unrecoverable management impacts.

Water and Wastewater Infrastructure Projects: Bureau of Reclamation. Given the vast unmet water and wastewater infrastructure needs in Indian country, and the lack of capacity in existing loan and grant programs operated by the Bureau of Indian Affairs, the Indian Health Service, the Environmental Protection Agency, and the Department of Agriculture, to name a few, Congress has enacted laws authorizing the construction of region or reservation specific projects such as the Mni Wiconi Project Act, P.L. 100-516, the Fort Peck Reservation Rural Water System Act, P.L. 106-382, and the Jicarilla Apache Reservation Rural Water System Act, Title VIII of Public Law 107-331. Though congressionally approved and slated for funding through the Bureau of Reclamation, these projects are either under funded or have not yet been funded at all. For example, two years ago Congress authorized the Jicarilla project to repair and replace an eighty-year old BIA water system that has deteriorated to the point of creating serious public health and safety

risks to the people served by it, as well as crippling economic development, housing and other opportunities that require basis water infrastructure. The Jicarilla Apache Nation seeks \$5 million in FY 2006 to support first year funding for its project. NCAI supports these Tribes in their specific requests to fully implement and fund these water projects that have been duly authorized by Congress and signed into law by the President.

INDIAN HEALTH SERVICE

The Administration proposed a \$642 billion budget for the Department of Health and Human Services, a 1.2% decrease from the FY 2004 spending, some of which would come from the Indian Health Service. Poor health continues to inhibit the economic, educational and social development of all of Indian Country. A vast range of public health indicators show that American Indians continue to suffer disproportionately from a variety of illnesses and diseases. Indians have a shorter life expectancy and have higher rates of disease than the general population. They suffer significantly higher rates of diabetes, mental health disorders, cardiovascular disease, pneumonia, influenza, and injuries. The Indian Health Service is charged with the primary responsibility for eliminating these disparities. Indians' health status has improved over time (life expectancy has increased), but it still falls far behind the improvements attained in other groups. Thus, in real terms, Natives' health status is improving little relative to other racial and ethnic groups. Most improvements in Indian health can be attributed to increased access to health care and public health efforts to reduce the effects of infectious disease. However health status improvement has reached a plateau in recent years. The trend in IHS of per capita expenditures for Native Americans being lower than the national average could erode the previous health improvements. Indians have worse access to routine health care than the general population and IHS users are provided service by only half the number of nurses and physicians compared to the national average.

Despite slight increases, IHS' real spending per American Indian has fallen over time, after adjusting for inflation and population growth. The IHS spends roughly \$1900 per person per year on comprehensive health services, far below expenditures per person by public and private health insurance plans, and 50 percent of what is spent for health care for *federal prisoners*. Even when IHS non-medical expenditures per person are accounted for, IHS spends less on its service users than the government spends on any other group receiving public health care.

FY 2005 appropriations for the Indian Health Service (IHS) included a rise of \$105.4 million over the FY 2004 enacted level. Yet this increase hardly keeps pace with the \$397 million IHS would have needed to maintain existing health care services when taking into account mandatory, inflation, and population growth increases. NCAI recommends and supports a \$300 million or 10% increase in funding of the Indian Health Service to fairly reflect mandatory costs increases, to provide necessary funding to reduce health disparities and to restore unfunded mandatory costs from previous years.

Exempting Indian Health Care from Across-the-Board Rescissions. The FY 2004 Interior conference report required \$19.1 million be deducted from the IHS appropriation to comply with first a .646% ATB rescission. Then a second .59% rescission of \$17.3 million to IHS totaled cut of \$36.4 million. Similarly, IHS received a \$42 million reduction to the IHS FY 2005 appropriation from first a .59% rescission in the Interior bill and then a .8% ATB rescission. NCAI urges a restoration of the \$36.45 million rescission from FY 2004 to the IHS appropriation for FY 2006 (NCAI Resolution FTL-04-077). NCAI also urges a restoration of the \$42 million rescission from FY 2005 to the IHS appropriation for FY 2006.

The mandatory costs of maintaining and preserving the basic level of care are unavoidable—the effect of rescissions have an adverse impact by eroding the IHS base budget, which ultimately means these costs are covered by cutting health services. Moreover, recent state fiscal crises and proposed changes will impact Medicaid and Medicare collections and will adversely affect the ability of IHS and tribally

operated health programs to collect third party reimbursements, further reducing the budget for Indian health programs.

NCAI urges Congress to refrain from imposing across-the-board rescissions on the IHS budget and urges Congress to exempt the IHS budget from across-the-board rescissions, consistent with Department of Defense and Veterans Affairs programs that all provide health care services (NCAI Resolution FTL-04-078).

Prevention and Health Promotion. There is a clear gap in preventive care among the American Indian and Alaska Native population as evidenced by the growing disparities in health for certain preventable health conditions (i.e., diabetes, heart disease, cancer, tuberculosis, and injuries). The mortality rates for the Indian population are disproportionate compared to all races in the U.S. for the following preventable diseases and conditions: 638% greater for alcoholism; 400% greater for tuberculosis; 291% greater for diabetes; 215% greater for accidents; 191% greater for suicide; 181% greater for homicide; 167% greater for pneumonia; and 120% greater for heart disease. A prolonged course of illness and disability from such chronic diseases results in extended pain and suffering and decreased quality of life for American Indians. The 1996-1998 tribal Years of Potential Life Lost (YPLL) rate is 83 percent greater than the U.S. among all races. Adopting healthy behaviors such as eating nutritious foods, being physically active and avoiding tobacco can prevent or control chronic disease and early screening and detection are essential to preventing long term disability. In support of the National Indian Health Board, NCAI calls upon Congress to appropriate \$200 million to the IHS to support health promotion and chronic disease prevention programs at the community, school and worksite to improve the health of American Indian/Alaska Native people. NCAI also urges that such funds be recurring, are disbursed in a non-competitive manner, and do not adversely affect the annual appropriations of the Indian Health Service.

Contract Health Services. NCAI recommends an increase to CHS of \$12 million just to maintain current service levels at the rate of inflation because CHS is most vulnerable to inflation pressures. Since the current funding level meets less than one-half of the CHS need, leaving many Indian people either without any medical service access or only service to treat life or limb conditions, NCAI recommends another increase of \$25 million. The total suggested increase is \$37 million for CHS.

Health Facilities Construction. The largest cut to the IHS budget would be in the Health Care Facilities line item, which would decrease \$86 million from last year's level. The current average age of an IHS facility is 32 years. An additional \$50.9 million will allow for construction of new health facilities and allow IHS to replace its priority health care facility needs with modern health facilities and to significantly expand capacity at its most overcrowded sites.

Mental Health. Indians have about 1 psychologist per 8,333 compared to an average of 1 for 2,213. The most significant mental health concerns are substance abuse, depression, anxiety, violence, and suicide. Depression is emerging as a dominant concern and is often linked to isolation on distant reservations, pervasive poverty, hopelessness, and intergenerational trauma. Current efforts to reduce the prevalence of these behavioral health problems are not effective. NCAI recommends an increase of \$40 million to enable IHS and tribal governments to provide culturally appropriate mental health services in a more timely and efficient manner.

Contract Support Costs. Contract Support Costs are vital to support tribal efforts to develop the administrative infrastructure critical to their ability to successfully operate IHS programs. Contract Support Costs are the key to self-determination for tribes—these funds ensure that tribes have the resources that any contractor would require to successfully manage decentralized programs. Tribal governments continue to assume control of new programs, services and functions. NCAI recommends an

additional \$70 million to alleviate the shortfall for current contracting and compacting. NCAI urges \$10 million of the total be for contract support at Navajo Nation Health Foundation, Sage Memorial Hospital.

While important gains have been made in funding for diabetes prevention and treatment efforts, progress toward the goal of eliminating health disparities for American Indians and Alaska Natives will require coordinated, concerted efforts—and increases across the board in the IHS budget.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The Administration requested a few Indian specific increases, such as for Title VI Loan Guarantee, but these increases fail to offset the proposed losses for Indian Country. Currently in the FY 2005 appropriations, the Indian Community Development Block Grant (ICDBG) is funded at \$68 million and the Native American Housing Block Grant is funded at \$622 million for a combined \$690 million for Indian housing. The President proposes rolling the ICDBG into the Native American Housing Block Grant for a combined total of \$583 million, which would translate into a loss of \$107 million in housing for Indian Country. The ICDBG will stay in the Department of Housing whereas the other CDBG programs will move under the Department of Commerce.

A successful start in life depends on safe, quality and affordable housing, which helps to prevent and alleviate other physical and social problems from occurring, including lack of educational achievement and poor health. These types of problems make it difficult to obtain and maintain employment, creating further economic hardship for the families. Native Americans are three times more likely to live in overcrowded homes than other Americans despite improvements in overcrowding rates in the past decade. Indians are more likely to lack sewage and water systems. Approximately 90,000 Native families are homeless or under-housed. 17% of Native Americans in tribal areas lack telephone service compared to the national 2% average.

The Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) allowed tribes for the first time in history to have control over how their housing dollars would best be spent to fit their communities. The Native American Housing Block Grant level for FY 2005 falls short of meeting housing needs in Indian Country and also fails to address the rising costs of construction. At \$627 million, 2005 enacted level, the NAHBG is at its lowest in five years. According to the U.S. Department of Labor, housing costs increased at an annual average of 2.5% the past three years. For the NAHBG to maintain current purchasing power, Congress would have needed to budget \$698 million for tribes, \$71 million more than enacted, so that tribes could meet the housing needs of their communities.

The proposed FY 2006 level for the Native American Housing Block Grant is \$582.6 million. NCAI supports \$723 million for the NAHBG, \$140.4 million over the Administration's proposed amount.

DEPARTMENT OF COMMERCE

The historic lack of economic development on tribal lands has led to high rates of unemployment and poverty. But a recent report from the Corporation for Enterprise Development documents a significant increase in Native entrepreneurship. The Native Financial Education Coalition is actively promoting financial education in Native communities. Financial education together with Native entrepreneurship advances sovereignty both economically and politically. Minority business development through the Small Business Administration (SBA) enhances individuals and larger tribal communities, as those dollars are spent over and over in our economies.

The SBA has created Tribal Business Information Centers (TBIC) on Indian reservations providing services for businesses and providing business opportunities for Indian owned businesses. The Office of Native

American Business Development was created in the Department of Commerce in 2000 to assist Indian tribes with the creation of appropriate economic and political conditions with respect to Indian lands, specifically in the areas of investment from outside sources and economic ventures with outside entities that do not originate from the tribes. NCAI urges the necessary funding for the development and expansion of Tribal Business Information Centers (NCAI Resolution #FTL-04-023). NCAI supports the necessary funding for the realization of the Office of Native American Business Development (Resolution #FTL-04-022).

The Administration has proposed a significant new initiative in the Department of Commerce to consolidate economic development programs, with a \$3.71 billion increase in the department dedicated for the "Strengthening America's Communities Grant Program." NCAI would like to work with the Administration and Congress as it shapes the new grants program so that tribes have equitable access in this new initiative.

DEPARTMENT OF LABOR

Despite recent rapid economic improvement documented in the Harvard Project report, income is less than half the average and unemployment remains nearly double the U.S. rate. The Workforce Investment Act (which includes Native American Comprehensive Services and the Native American Supplemental Youth Services programs under Section 166) and its legislative history recognize the very serious competitive disadvantages which Native people face in the workforce.

Shrinking funds available for the core Native employment and training programs are totally inadequate to address Indian population growth, cost of job training, as well as the needs arising from major economic development projects. The Native population has increased by over 25%, counting just those who said their only race was American Indian or Alaska Native. The cost of job training, as measured by the average tuition and fees charged by public two-year colleges, has increased by roughly 22% in inflation-adjusted dollars. The funding level for the WIA Section 166 Comprehensive Services program (compared to its predecessor program) has been cut by almost 33% in inflation-adjusted dollars.

New business, commercial, and retail developments cannot fully maximize tribal employment opportunities for the lack of job training dollars. Although the Labor Department has some general discretionary funds which could be used for these purposes, the programs involved are directed largely at urban, non-Indian needs and are not designed in any way to accommodate special tribal needs.

The Administration proposed level funding for Section 166 Native American Comprehensive Services Program at \$54.2 million for FY 2006, which is actually below the minimum for the program provided in the WIA law of \$55 million. To begin to meet tribal and off-reservation Indian needs, NCAI recommends funding for the Section 166 WIA Comprehensive Services program be increased to at least \$75.0.

DEPARTMENT OF EDUCATION

The President's budget proposes an overall reduction to the Department of Education of about 2.9% from the FY 2005 enacted amount. NCAI has serious concerns that inadequate funding for Indian education will leave the promise of the recent Executive Order on American Indian and Alaska Native Education (E.O. 13336) and of the NCLB act unfulfilled. Overall education funding for American Indian, Alaska Native, and Native Hawaiian students in the Department of Education would decrease by about 4.3% in the proposed budget for FY 2006. Indian Education would receive funding level with the 2005 enacted amounts, and \$1.7 million less than enacted for FY 2003. Funding for the Department of Education increased 2.4% for FY 2005, but Indian Education programs received none of these increases. NCAI urges a funding increase of 5% for Native education programs over the FY 2004 level to account for the failure of Indian education funds to keep pace with the overall Department of Education.

Indian Head Start

The Head Start/Early Head Start Programs are vital to Indian Country. Over the last 40 years, Head Start has played a major role in the education of Indian children and in the well-being of many tribal communities. Of the approximately 562 federally recognized Tribes, 28% participate in Head Start/Early Head Start Programs, with a funded enrollment of 23,374 children. These programs employ approximately 6,449 individuals, of whom 3,263 are either former or current Head Start/Early Head Start parents. There are another 35,395 volunteers, 22,095 of whom are parents. The comprehensive nature of this program, integrating education, health and family services, is close to a traditional Indian educational model and has proven a very successful program for Indian Country. Many of today's tribal leaders are graduates of Indian Head Start programs.

Increasing the Indian Head Start Set-Aside from approximately 2.8% to 4%. Currently, the Department of Health and Human Services sets aside approximately 2.8% of Head Start funding for Indian Head Start and Early Head Start programs. Tragically, by any statistical measure, most Indian tribes remain on the lowest rung on the American socio-economic ladder. For this reason, the Senate Health, Education, Labor, and Pensions Committee, on a bi-partisan basis, has endorsed increasing the Indian Head Start set-aside to 4%.

Increasing the Indian Head Start set-aside from 2.8% to 4% would have a tremendous positive impact on all aspects of Indian Head Start, including dramatically increasing the number of students served, as well as funding quality enhancement such as teacher salary increases, improved management and administration, the hiring of additional substitute teachers, expanded transportation capabilities, acquisition of up-to-date technology, and expanded professional development opportunities.

American Indian Elders

Without exception, our tribal cultures teach us to honor and respect Indian elders, the living expression of our heritage and highest values, who in turn teach us and our children. Sadly, the health status of Indian elders ranks among the poorest of any minority in the nation. They are disabled at rates 50% higher than other American elderly. Nearly 3 out of 5 live below 200% of poverty. Only 66% of eligible Indians are accessing Social Security. As the Indian Country Diabetes epidemic continues, the disease and its complications affect elders more than any other age group. More than 1 of every 4 Native elders have Diabetes and in some communities, more than half of the elders are afflicted. As they live longer, they are also living with the complications and disabilities caused by the disease. No where are the disparities in minority health care so great.

As the Older Americans Act (OAA) provides the basis for funding for services to American Indian elders, NCAI urges the funding for the minority organizations under Title V of the Older Americans Act such as organizations like the National Indian Council on Aging that serve as the principal entity providing low-income American Indian elderly with employment training opportunities. NCAI also urges funding under Title VI of the Older Americans Act to be incrementally increased from \$26.612 million to \$100 million, with an appropriation of at least \$50 million for FY06. Title VI, Part C, of OAA should be funded separate from Title III, Part E since Title VI, Part C authorizes the Native American Caregiver Program. Title VI, Part C should be funded at least \$20 million in FY 2006. NCAI also urges funding for the provisions in Title VII of the Older Americans Act addressing American Indian elder abuse to receive \$25 million.

ENVIRONMENTAL PROTECTION AGENCY

Tribes are sovereign entities with the ability to set environmental quality standards, make environmental policy decisions, and manage programs consistent with EPA standards and regulations. Tribes are the most effective at protecting tribal members and resources. In order to preserve and enhance the environmental

quality of Indian Country for present and future generations and sustain tribal cultures, tribes deserve equitable funding for their environmental regulatory programs.

The Department of Health and Human Services has reported that 8 percent of Indian homes lack running water, compared to less than one percent of the non-Indian population. Thirty-three percent of tribal homes, fully one-third, lack adequate solid waste management systems. In 2005, no American should be without access to clean water and sanitation facilities. These programs need increased funding—not cuts—to address these infrastructure needs that are so critical to public health.

General Assistance Program. Tribal environmental program managers rightly perceive the EPA's General Assistance Programs (GAP) as the primary federal mechanism available to protect our lands. GAP activities provide tribes with the resources needed to build capacity for EPA-delegated environmental programs. The Administration has requested \$57.5 million for tribal GAP grants for FY 2006. NCAI supports a minimum level of \$68.3 million in order for tribes to continue to develop their environmental management infrastructure capability.

The Federal Clean Air Act (CAA) is a basic and important source of funding for Tribal Air Quality Management Programs to protect human health and the environment. The President's requested amount for Tribal Air Quality Management grants is \$11 million available for Tribes to develop and implement air pollution prevention and control programs, or to implement national primary and secondary ambient air standards. The national tribal governments' need has been identified to be \$22.4 million.

NCAI supports the following national tribal funding needs: \$173.4 million for Tribal Water Quality Management under the Clean Water Act, Section 106; \$30.6 million for the CERCLA or Superfund source for Tribal Superfund programs; \$510 million for the Safe Drinking Water Act, source for Tribal Drinking Water Quality Management; \$48 million for the Federal Insecticide, Fungicide, and Rodent Act, source for Tribal Pesticide Programs; \$56 million for the Resource Conservation and Recovery Act, source for Tribal Solid Waste, Hazardous Waste, and Underground Storage Tank Programs.

HOMELAND SECURITY

Tribes have long recognized that our prosperity and well-being are intimately linked to the security of our Homeland. Native people have heeded the call to defend the American way of life in greater numbers than any other group in the history of the United States. Tribes will continue to defend American lives and homelands against the threats our great nation now faces. This war on terrorism will be the first war in U.S. history that will be fought as much by law enforcement and first responders as by the military. In recent years, tribal lands have experienced an increase in the very activities that finance terrorism, such as drug trafficking, gang violence, and illegal immigrant smuggling. Nearly \$4 billion has been made available to state governments under the Homeland Security Act to fund a wide variety of activities, yet none of this flows directly to tribal governments.

NCAI supports legislation that would allow tribal governments to directly access Homeland Security funding and resources and to have a seat at the table during the policy and budget development process on matters that affect their interests. This need is clearly demonstrated by the Tohono O'odham Nation located in Arizona which spends millions of dollars annually to protect the 75 mile international border that it shares with Mexico. The Tohono O'odham Nation's 71-member police force is the first and front line emergency and law enforcement responders to deal with a 1500 per day traffic of undocumented immigrants and drug traffickers who cross the vast, vulnerable border. The nation is also compelled to provide health care or make other arrangements for the illegal immigrants found either dead or near dead in the desert, and it has absorbed the burden of cleaning up the six tons of trash littered on its Reservation daily due to the immense illegal

immigration. The nation has undertaken these activities to protect the homeland with little to almost no Homeland Security funding.

Tribes need to be respected as governments as we fulfill our role in protecting our nation. More than 25 Indian tribes govern lands that are either adjacent to borders or directly accessible by boat from the border. These tribal lands encompass over 260 miles of international borders. We can not afford a weak link in the chain of homeland security. Tribal law enforcement has to be given the resources necessary to play its role in protecting the American homelands.

DEPARTMENT OF JUSTICE

The Administration has proposed significant changes within the Department of Justice, and NCAI urges Congress to ensure that tribal law enforcement activities are not diminished or weakened during the process. In the FY 2006 budget request, Indian Assistance, under State and Local Law Enforcement, would receive no funding. Enacted for FY 2005 within Indian Country Assistance was \$5 million for Tribal Prison Construction, \$8 million for Tribal Courts, and \$5 million for Alcohol and Substance Abuse grants. Under Juvenile Justice Programs, the amount enacted in FY05 for the Tribal Youth program was \$10 million. The Administration also requested no funds for the Tribal Youth program in the President's budget.

The President's budget requests \$51 million for Tribal law enforcement under the Community Oriented Policing Services program, \$31 million over the enacted level for FY 2005. The Community Oriented Policing Services grants program has proven to be an excellent method for successful law enforcement in Indian Country, which provides direct funding to tribes on a government-to-government basis. COPS grants have helped Native communities hire 1,800 new police officers since 1999. The Indian Country COPS program is widely acknowledged among tribal leaders as essential for law enforcement, public safety, and Homeland Security. But a total of 759 law enforcement positions will have expired between 2004 and 2006. Even though the Indian Country COPS program would receive \$31 million over the level enacted for 2005, the Administration appears to have zeroed out the funding for Indian Assistance, which includes tribal courts, prisons, and alcohol and substance abuse grants. Nor does the proposed budget request funds for the Tribal Youth program in Juvenile Justice. In light of the apparent consolidation of funds in the Department of Justice for tribal programs, NCAI urges Congress to ensure that tribal governments are still able to take control of law enforcement locally to improve responsiveness, strengthen accountability, and tailor services to meet community needs.

CONCLUSION

NCAI realizes Congress must make difficult budget choices this year. As elected officials, tribal leaders certainly understand the competing priorities that you must weigh over the coming months. However, the federal government's solemn responsibility to address the serious needs facing Indian Country remains unchanged, whatever the economic climate and competing priorities may be. We at NCAI urge you to make a strong, across-the-board commitment to meeting the federal trust obligation by fully funding those programs that are vital to the creation of vibrant Indian Nations. Such a commitment, coupled with continued efforts to strengthen tribal governments and to clarify the government-to-government relationship, truly will make a difference in helping us to create stable, diversified, and healthy economies in Indian Country.