S. HRG. 109–9

FISCAL YEAR 2006 BUDGET

HEARING

BEFORE THE

COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

ONE HUNDRED NINTH CONGRESS

FIRST SESSION

ON

OVERSIGHT HEARING ON THE PRESIDENT'S FISCAL YEAR 2006 BUDGET REQUEST FOR INDIAN PROGRAMS

FEBRUARY 16, 2005
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FISCAL YEAR 2006 BUDGET

WEDNESDAY, FEBRUARY 16, 2005

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

The committee met, pursuant to notice, at 9:34 a.m. in room 485, Senate Russell Building, Hon. John McCain (chairman of the committee) presiding.

Present: Senators McCain, Coburn, Conrad, Dorgan, Johnson, Murkowski, and Thomas.

STATEMENT OF HON. JOHN MCCAIN, U.S. SENATOR FROM ARIZONA, CHAIRMAN, COMMITTEE ON INDIAN AFFAIRS

The CHAIRMAN. The committee will come to order.

I recognize the need to balance the Federal budget and agree that cuts in discretionary spending programs are warranted. As a fiscal conservative, I expect to support a budget resolution that keeps discretionary spending down. That said, I object to many of the decreases in funding that are proposed in the President's fiscal year 2006 budget for Indian programs.

The Federal Government has continually reneged on its trusts and moral obligations to meet the educational, health care and housing needs of Indians. These needs far outweigh the imperceptible contribution that the proposed cuts will make to reducing the deficit.

Some of the proposed reductions that are ill-advised are to those programs such as BIA's Tribal Priority Allocation Program and HUD's Native American Housing Block Grant Program that are managed and administered by the tribes themselves.

A recently released study by the Harvard Project on Indian Economic Development examined 10 years of socio-economic change experienced by Indians living on Indian lands. It concluded that Indians' economic growth and improvements in social well being far exceed progress being made by the overall population. The study attributes this progress to the policies of self-governance.

Despite this improvement, however, the report notes that tremendous disparities continue to exist between our country's Indian populations, both gaming and non-gaming tribes, and all other people. These findings support the need for consistent Federal funding for programs that help Indian tribes achieve self-determination and that allow local decision makers, not Federal administrators, determine how best to address local needs.

While the proposed budget cuts many Indian programs, a notable exception to this is in the Office of the Special Trustee, within which the budget for historical accounting is slated to grow by $77.8 million or 40 percent, while all around it programs such as those funding education and substance abuse prevention have been drastically cut or eliminated. It is lamentable that we are in a situation that the funding for an accounting appears to have come directly from programs that affect the daily lives of Indians. No doubt this request for funds to conduct a historical accounting is a result of the *Cobell* v. *Norton* litigation.

By proposing only $34.5 million for land consolidation, however, the Administration seems to have under-valued another means of addressing its trust administration problems. The BIA currently administers hundreds of thousands of individual Indian money accounts, many of which cost more to maintain than the value of the funds moving through them. Last year, Congress amended the Indian Lands Consolidation Act to permit the Department of the Interior to buy up highly fractionated land interests in order to reduce BIA's administrative burden and increase the size of tribal land holdings. Those amendments authorized $95 million for land consolidation in fiscal year 2006, and $145 million a year for several fiscal years thereafter. The primary reason for these funding authorizations was to eliminate the very conditions that gave rise to the *Cobell* litigation.

I understand that the Administration's rationale for some of the program cuts is they did not perform well in the OMB's program assessment rating tool, or PART, evaluations. I would like to examine this. The accountability problems at the BIA, however, are not helped by the sweeping prohibition on the department's use of the internet that remains in effect by court order in the *Cobell* case. The BIA has always been a troubled agency, but it is unreasonable to expect it to overcome this with one hand tied behind its back.

While I appreciate the need to provide security for computerized Indian trusts, and support the efforts of both the plaintiffs and the Department to improve IT security, I cannot help but wonder whether confining the Bureau and much of the rest of the Department of the Interior to paper transactions in this electronic age is doing more harm than good to the Indian people, and the rest of the public that the Department is supposed to be serving.

Unfortunately, the Budget Committee has given us only until Friday to submit our views and estimates letter on the proposed budget. Senator Dorgan and I intend to circulate a draft letter to all offices by noon tomorrow. We ask that all comments on this draft be submitted by 5 p.m. tomorrow so we can submit the letter, at least this first one, to the Budget Committee on Friday.

I look forward to hearing from the witnesses. I hope that is the longest opening statement that I will ever make as chairman of this committee. [Laughter.]

The CHAIRMAN. But I would like to reemphasize to my colleagues that the *Cobell* issue impacts everything else that we do in our programs concerning Native Americans. We have to get this resolved or say that we will leave this to the courts in the years and perhaps decades to come for them to settle. It is an issue that impacts

everything else that we do, and one that I think therefore has to have a very high priority.

Senator Dorgan.

STATEMENT OF HON. BYRON L. DORGAN, U.S. SENATOR FROM NORTH DAKOTA, VICE CHAIRMAN, COMMITTEE ON INDIAN AFFAIRS

Senator DORGAN. Mr. Chairman, thank you very much. Let me just say that I agree with much of what you have said this morning, especially on the issue of the trust situation. It threatens to overwhelm all of these other issues. We must find a way to use some commonsense to address it and deal with it because otherwise we will grapple with that for a long, long time and it will affect all the other things that all of us believe we ought to do.

Let me also say I agree with you that much in this budget is not adequate, and that is not a very good description, to say not adequate. We have many in this country living on reservations that live in third world conditions. We do not want to talk about it very much, but let me just in a few seconds tell you that Avis Little Wind, who hung herself at age 14 recently on a reservation, did so in a circumstance where there was no mental health capability available to her. She laid in bed in a fetal position for 90 days missing school. Everyone should have been alerted to it, and yet she died.

Sarah Swift Hawk died in bed. She was a grandmother. She laid down and froze to death. Yes, she froze to death in this country on the Pine Ridge Reservation in South Dakota. Rosie Two Bear is in a school with 150 kids, two toilets and one water fountain; 30 kids in a room; desks one inch apart. Rosie says, Mr. Senator, can you build us a new school?

The fact is, we have circumstances on the reservations in this country that are desperate. We have bona fide emergencies in housing, health care and education, and we must get about the business of addressing them. You go to a reservation and find one dentist working out of a trailer house, serving 5,000 people, and you ask yourself, is this what we hoped to have happen or can we do better?

My fervent hope is that on this committee working with the Chairman and so many other members of the committee, that we can do much, much better. For years, Administrations have not provided the budgets that we need in order to address these issues. It is a matter of resources when you deal with these issues of housing, health care and education.

Finally, in the education area, I would say this budget says once again that the two colleges that I think are standout colleges, the United Tribes Technical College, and the Crownpoint Institute of Technology are not worthy and really should be de-funded. What on earth are these priorities about? I mean, who decides these priorities? Why should the tribal colleges, which represent the step ladder up and out of poverty for so many people have their budgets cut substantially at a time when we already provide only about 50 percent of the support for those Indian students than we do for community college students.

So we have so much to do. We can do much, much better. I hope that this committee is a source of hope and inspiration to deal with these issues.

Mr. Chairman, I look forward to working with you and my colleagues on the committee.

The CHAIRMAN. Thank you.

Senator Thomas.

STATEMENT OF HON. CRAIG THOMAS, U.S. SENATOR FROM WYOMING

Senator THOMAS. Thank you, Mr. Chairman. I certainly agree with you that we have to hold down the budget. On the other hand, we have to look at these issues. I also agree with you on the length of opening statements. I am glad to see that this budget does deal with health care. It does deal with secondary and elementary schools. It does deal with vocational things. But we need to really overlook this and see what we can do.

Unfortunately, I have to go the Floor, but I appreciate your holding this hearing.

The CHAIRMAN. Thank you, Senator Thomas.

Senator Johnson.

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

Senator JOHNSON. Chairman McCain and Vice Chairman Dorgan, thank you for holding this hearing on the vital issue of funding for Indian programs.

The President's budget proposals almost universally throughout every agency that affects Indians are an abomination. This budget proposal is out of sync with values shared by Americans who care about children, education, strong communities, adequate law enforcement and the opportunities to share in America's blessings. This budget especially hurts those with the greatest needs, those in the poorest communities served by the weakest infrastructures, with the least access to economic opportunity and basic government services.

Just this past weekend, I took a dirt road from Red Shirt, SD, a tiny community located on the Pine Ridge Indian Reservation. The folks of Red Shirt do incredibly well considering the lack of Federal contributions. They do the best they can, but this community struggles, and sadly there are hundreds of these communities like Red Shirt that exist in Indian country that need basic essential services and opportunity.

Despite the Federal treaty and trust responsibilities owed to Indians, the President has proposed that Indians make enormous sacrifices to help provide the tax breaks the President is so passionately committed to give to the wealthiest Americans. Indians are happy to do their part to help their Nation with its essential needs, such as fighting the war on terror and keeping our Nation safe. As we all know, Native Americans serve in the armed forces at a higher rate than any other group. But this budget tries to scrape pennies from the programs that serve the poorest Americans, while it fails to ask the wealthiest Americans to make similar sacrifices.

Needless to say, I am profoundly disappointed with the President's priorities. As an example, the BIA Indian school facilities budget, despite the fact that we have condemned facilities, as is the case at the Crow Creek Sioux Tribe in South Dakota, the President is proposing a reduction of $89.5 million, more than 33 percent from fiscal year 2005, for school construction. The President zeroed out the entire Community Development Funding Initiative Program, a portion of which was targeted to Indian country.

He proposes a decrease in funding for Indian housing through the block grant program by over $100 million. How can tribes develop their economies without economic development programs? Important to my South Dakota tribes is the President's request pertaining to the tribal priority allocation funding. TPA funds are used for various programs such as Johnson O'Malley, the Tribal Work Experience Program and others.

I am also concerned about the budget pertaining to the Office of Special Trustee. OST's budget is growing and while I understand the need to fund historical accounting and the Indian Land Consolidation Program, I am concerned that OST's budget is hemorrhaging at the cost of Indian program funding. To add insult to injury, the Department of the Interior's across-the-board rescission that occurs every year takes off the top cut of all our program funding.

As testimony today will reflect, every aspect of Indian funding is hurting. I am concerned in particular about the school construction and again an enormous cut in tribal college and university funding being proposed by the President. At a time when we ought to be trying to find ways to empower Native Americans to succeed economically in a competitive world, the very means, the very ladder that needs to be there to allow that to happen is being destroyed by this Administration's priorities. We need to do better and I look forward to working in a bipartisan fashion on this committee and on the Appropriations Committee and on the Budget Committee to do better.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Coburn.

STATEMENT OF HON. TOM COBURN, M.D., U.S. SENATOR FROM OKLAHOMA

Senator COBURN. Mr. Chairman and Mr. Vice Chairman, I appreciate the opportunity to be here. I do not have an opening statement other than to say it is an obligation to us to make sure the money that is spent is spent efficiently. I will work to help you put that forward.

I will be leaving for another committee meeting, and I would ask that I have some written questions that I would like to be submitted to the witnesses and answered by letter.

The CHAIRMAN. Without objection, they will be made and entered.

Senator Conrad.

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

Senator Conrad. Thank you, Mr. Chairman. I especially want to welcome you and our new Ranking Member, my excellent colleague, Senator Dorgan, to these new responsibilities.

The CHAIRMAN. Thank you.

Senator CONRAD. I am very much looking forward to working with the two of you. I think this is going to be excellent for the committee.

Let me just say with respect to the budget, about 1 year ago I went to Standing Rock Sioux Tribe in North Dakota and went to the high school. In the high school, which was designed by an architect from the southwestern part of the United States, Mr. Chairman, I love the Southwest, but this particular architect did not understand North Dakota winters. In one part of that building in February, it was 75 degrees; in another part of that building, it was 50 degrees. This was in a February winter. It was about 10 below outside.

It really made it very, very hard to have an environment for learning. To add to the difficulty, the school was built on an open classroom concept, so there were no walls separating the classrooms. Mr. Chairman, Senator Dorgan knows this story well, you could not hear yourself think there, much less listen to a teacher to learn.

When I look at this budget and I see school construction cut 57 percent, and I see tribal colleges cut nearly 20 percent, I see United Tribes Technical College have its funding eliminated, which is really one of the bright spots in our State in Indian country. This college is reaching out to young people and giving them a chance. The best thing that I see happening in Indian country are in these tribal colleges, in these institutions of learning. It is the one bright spot. It is the one place I go where you can see people having a sense of achievement and a sense that they can make a difference.

I remember attending the graduation of a number of the tribal colleges, and for the first time in my own career feeling a sense of hope about what could occur. I look at this budget and it is not building on hope; it is destroying hope. That should not be what we are about.

Goodness knows, nobody has given more speeches about the need to reduce deficits than I have. I do not think that anybody feels it any more passionately than I do. I believe we are on the wrong course. But a budget is also about priorities. This budget for Indian country really must be fixed. We are talking about a modest amount of money and the needs are great.

I thank the Chair. I thank the Ranking Member.

The CHAIRMAN. I thank my friend from North Dakota. I know that we will have ample opportunity to engage in discussions of priorities. I think we are in agreement that these budget cuts are probably really both unfair and unsustainable, but I would also hope that we would realize over the years that we have enormous waste and mismanagement. You just described it. That is why this Harvard study on self-governance is an important document. If the tribe had been governing itself, I doubt if they would have built that school like you just described. The more self-governance that

the tribes will adopt, and I think Mr. Swimmer here, who has been involved in this for many years would agree with it, the more efficiently they will conduct themselves and the more progress they will achieve. It is the old welfare dependency situation, and I hope that working together we could make that a priority since it seems to be the only way the tribes have been able to improve, or the most significant way that tribes can improve is through self-governance. I think we will have plenty of time for hearings and discussion on that.

I thank my colleague from North Dakota. Please, go ahead.

Senator CONRAD. Mr. Chairman, if I could just comment. The Budget Committee is set to meet in just a few minutes, so I would like to excuse myself and ask that my full statement be made part of the record.

The CHAIRMAN. Without objection. I think our Native American friends think they need you more there than here. Thank you.

Our first panel is Jim Cason, acting assistant secretary for Indian affairs of the Department of the Interior, accompanied by Ross Swimmer, special trustee for American Indians; Charles W. Grim, director of Indian Health Service, Department of Health and Human Services, accompanied by Gary Hartz, the acting deputy director of Indian Health Service; Michael Liu, assistant secretary of the Office of Public and Indian Housing, Department of Housing and Urban Development, accompanied by Roger Boyd, the deputy assistant secretary, Office of Native American Programs [ONAP's], and Tom Wright, the director of ONAP's Office of Loan Guarantees, Department of Housing and Urban Development; and Victoria Vasques, assistant deputy secretary and director of the Office of Indian Education, Department of Education, accompanied by Cathie Martin, deputy director, Office of Indian Education, and Thomas Corwin, director, Division of Elementary, Secondary and Vocational Analysis of the Budget Service of the Department of Education.

Welcome to all. Mr. Cason, we will begin with you, sir.

STATEMENT OF JIM CASON, ACTING ASSISTANT SECRETARY FOR INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY ROSS SWIMMER, SPECIAL TRUSTEE FOR AMERICAN INDIANS

Mr. CASON. Thank you, Mr. Chairman, for the opportunity to discuss the Administration's fiscal year 2006 budget for Indian programs in the Department of the Interior. Ross and I are providing a joint statement to reflect our joint approach to managing Indian programs within the Department of the Interior.

The Administration's fiscal year 2006 budget reflects historical commitments and reflects the dialog regarding current priorities for Indian tribes, Interior and OMB. Some of the noteworthy elements of our budget are the impacts of the *Cobell* litigation that you mentioned already, which shifts significant resources to trust programs, historical accounting, and litigation support. It reflects the recognition of work completed and settlements that have been implemented, a continued strong commitment to the construction of Indian schools, but a recognition of the increased balance of unobligated funds in that program. When combined, the Indian affairs

and OST's budgets reflect about the same level of funding that Congress provided in fiscal year 2005.

Ross and I have been working closely together during the past 3 years on improving the performance and results associated with our Indian trust programs. I am looking forward to the opportunity to work on other important Indian affairs programs.

Mr. Chairman, let me apologize in advance for the need to leave about 1 hour from now. I have been requested to testify in the House Resources Committee on the *Cobell* litigation and the prospects for fashioning a full and fair settlement of the issues there. I know that that is of great interest to this committee as well, and Ross and I are committed to working with this committee to explore that issue further.

Thank you.

[The prepared statement of Mr. Cason follows:]

The CHAIRMAN. Dr. Grim, welcome.

STATEMENT OF DR. CHARLES W. GRIM, DIRECTOR, INDIAN HEALTH SERVICE, DEPARTMENT OF HEALTH AND HUMAN SERVICES, ACCOMPANIED BY GARY HARTZ, ACTING DEPUTY DIRECTOR

Mr. GRIM. Good morning. Thank you, Mr. Chairman and members of the committee. I would like to add my congratulations to Senators McCain and Dorgan for assuming these leadership roles, and I look forward to working with you on Indian health issues.

We are pleased to have the opportunity to present the President's fiscal year 2006 budget request for Indian Health Service. I will summarize my written statement and ask that it be entered into the record please.

The CHAIRMAN. Without objection.

Mr. Grim. As part of the Federal Government's special relationship with tribes based on treaties, executive orders, judicial determinations and statutes, the IHS delivers health services to more than 1.8 million American Indians and Alaska Natives. Care is provided in more than 600 health care facilities throughout the country. We also fund Indian health organizations in 34 sites in urban areas across the country.

The budget before you today is a result of tribal and urban Indian consultation during the past year. In fact, the Department has been consulting with tribes and urban Indian organizations for 8 years no on budget formulation and we have found the process quite useful not only to the tribes and urban Indian organizations, but for the Department as well.

The Department has a better understanding of the health needs of Indian country based on the input provided by tribes and urban Indian health organizations through this process. The President's budget request for the IHS totals $3.8 billion, a net increase of $72.1 million above the fiscal year 2005 enacted level. The request will allow the IHS, tribal and urban Indian health organizations to maintain access to health care by providing $31.8 million to fund pay raises for Federal tribal and urban employees; $79.6 million to cover inflationary cost increases that are experienced by the health delivery systems; and to address the growing American Indian and Alaska Native population.

We will also be staffing and operating costs within this budget for six newly constructed health centers in the amount of $34.8 million. Once these health centers are fully operational, primary care provider visits will increase by 75 percent over what they were prior to the construction. In addition, we will be able to provide more comprehensive health services in those locations.

Additional tribal contracting under the Indian Self-Determination Act is supported by an increase of $5 million for contract support costs for new contracts estimated to be received in fiscal year 2006.

Consistent with HHS-wide policy, the IHS fiscal year 2006 request for facilities focuses on maintenance of existing facilities, and no funding is requested to initiate new construction projects. A total of $3.3 million is included to complete the construction of staff quarters at Fort Belknap service unit in the Billings area. Upon its completion, the project will provide 29 units of staff quarters for Harlem and Hayes outpatient facilities in Montana.

American Indian and Alaska Natives will also benefit from several provisions in the Medicare Prescription Drug Improvement and Modernization Act that was enacted in 2003. The Medicare Part D prescription drug coverage program when implemented in January 2006 will extend outpatient prescription drug coverage to American Indian and Alaska Native Medicare beneficiaries and increase Medicare revenues at our ITU facilities.

Other sections of the Act expand benefits covered under Medicare Part B and allow the IHS and tribal health programs to pay for additional medical care by increasing its bargaining power when buying services from non-IHS Medicare hospitals.

The proposed budget reflects the Federal commitment to providing high-quality medical and preventive services as a means of improving the health status of American Indians and Alaska Natives.

Thank you and I will be pleased to answer any questions that the committee might have.

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

The CHAIRMAN. Thank you very much.

Mr. Liu.

STATEMENT OF MICHAEL LIU, ASSISTANT SECRETARY. OFFICE OF PUBLIC AND INDIAN HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, ACCOMPANIED BY ROGER BOYD, DEPUTY ASSISTANT SECRETARY, OFFICE OF NATIVE AMERICAN PROGRAMS; AND TOM WRIGHT, DIRECTOR OF OFFICE OF NATIVE AMERICAN PROGRAMS, OFFICE OF LOAN GUARANTEE

Mr. LIU. Thank you, Mr. Chairman, Mr. Vice Chairman and members of the committee. I want to thank you for inviting me to provide comments on the fiscal year 2006 Administration budget for HUD's Indian housing and community development programs.

Let me say that progress in the area of housing in Indian country is being made through HUD programs. For example, during fiscal year 2004, tribes and their TDHEs used their IHBG grants to build 2,115 new housing units. Each new housing unit gave shelter to a family. If all of this building were used to relieve overcrowding, then it would have reduced the incidence of overcrowding in

Indian country by 4.5 percent. This is based on the 2000 census showing over 47,000 Indian families living in overcrowded conditions.

The Department is working on a measure to precisely track reduction in overcrowding, and we are committed to working with Indian housing block grantees to establish a set of measures that illustrate the program's outcomes. While there is still a long way to go, we expect to see overcrowding reduced by at least one additional percentage point in the coming year, allowing approximately 450 additional Indian families to have decent housing. We need to sustain this momentum and we believe that the 2006 budget helps us do that.

For several years now, I have updated you on the progress tribes and tribally designated housing entities, or TDHEs, have made toward the obligation and expenditure of funding. For fiscal year 2005, the Office of Native American Programs has enhanced its performance measures and continues its expansion of the access information system to ensure we are able to accurately report on the rate of fund obligations and expenditures. The Department is consulting with tribally elected leaders and TDHEs for their input so we may improve and streamline the data collection through the required Indian housing plan, the annual performance report, and the annual status and evaluation report for the ICDBG program.

I am now more confident than ever that the majority of tribes and their TDHEs are obligating and spending their grants in an expeditious manner. The Department's electronic line of credit control system shows that more than 82 percent of all grant funds appropriated between 1998 and 2004 have been expended by grantees.

Now, as for an overview of the budget request for 2006, the President proposes a total of $594.9 million specifically for HUD programs that serve Native Americans, including American Indians, Alaska Natives, and Native Hawaiians. Of this total, $582.6 million is authorized under the Native American Housing Assistance and Self-Determination Act. Of the NAHASDA funds, approximately $517.7 million is for direct formula allocations through the Indian Housing Block Grant Program; $4.8 million is proposed for NAHASDA's Title VI Tribal Housing Loan Guarantee Fund for credit subsidy and administrative expenses. This will leverage in one fiscal year $37.9 million in loan guarantee authority. The NAHASDA allocation also includes $57.8 million for the Native American Housing and Community Development Block Grant Program. Finally, there is $2.458 million available under NAHASDA for training and technical assistance to support these programs.

There is also $2.65 million in credit subsidy for the section 184 Indian Housing Loan Guarantee Fund, which will provide $99 million in that one fiscal year in loan guarantee authority. The Native Hawaiian community will receive through the Department of Hawaiian Homelands $8.8 million for the Native Hawaiian Housing Block Grant Program and $882,000 for the section 184(a) Native Hawaiian Home Loan Guarantee Fund, which will leverage approximately $35 million in new loan guarantees.

As for technical assistance and training, there is a set-aside of $2.7 million which will provide the initial training and technical as-

sistance to most grantees, enabling them to function effectively under NAHASDA. The President's request also includes $353,000 to provide the management and oversight of the Native Hawaiian Housing Block Grant Program. Specifically, on the issue of the National American Indian Housing Council training and technical assistance, tough decisions had to be made, priorities had to be made. No funds were requested under the Indian Housing Block Grant training and technical assistance set-aside for the NAIHC, as the Department believes they have sufficient funding. The NAIHC's current balance from the Indian housing block grant set-aside is $5.35 million. In addition, the NAIHC has a $4.56 million balance from prior budget set asides for technical assistance and training. We are working closely with the NAIHC to put these resources to work in a more expeditious manner.

We have a very positive story to tell about our loan guarantee programs, especially for the section 184. The in effect carryover and combined amounts for fiscal year 2006 will provide for over $250 million in loan authority for that program, more than sufficient for the volume that we anticipate. In fiscal year 2004, we in fact increased the number of mortgage loan guarantees to 622, up from 271 in fiscal year 2003. The loan volume also increased at a similar rate from $27 million to $67 million, all in 1 year. In total, we have done over 2,000 section 184 loan guarantee mortgages, over $212 million to provide homeownership for Native American families throughout the country. We believe the section 184 program will continue to play a vital role in keeping the President's commitment to create 5.5 million new minority homeowners by the end of 2010.

To assist us in this process we have been working very closely with the Bureau of Indian Affairs and the Department of Agriculture's Rural Development Office to formulate new agreements and partnerships to facilitate the title processing of required documents in Indian country.

With that, Mr. Chairman, I will conclude. I am available to answer any questions. Thank you very much.

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

The CHAIRMAN. Thank you.

Ms. Vasques, welcome.

STATEMENT OF VICTORIA VASQUES, ASSISTANT DEPUTY SECRETARY AND DIRECTOR OF THE OFFICE OF INDIAN EDUCATION, DEPARTMENT OF EDUCATION, ACCOMPANIED BY CATHIE MARTIN, DEPUTY DIRECTOR, OFFICE OF INDIAN EDUCATION; AND THOMAS CORWIN, DIRECTOR, DIVISION OF ELEMENTARY, SECONDARY AND VOCATIONAL ANALYSIS, BUDGET SERVICE

Ms. VASQUES. Thank you, Mr. Chairman and Mr. Vice Chairman and members of the committee. On behalf of Secretary Spellings, thank you for this opportunity to appear before you to discuss our fiscal year 2006 budget request for Department of Education programs that serve our American Indian and Alaska Native students.

I also request that my written statement be entered for the record.

The CHAIRMAN. Without objection.

Ms. VASQUES. I am Vickie Vasques, the assistant deputy secretary and director of the Office of Indian Education. As you stated earlier, I am accompanied by my colleagues Tom Corwin and Cathie Martin.

I am proud to say that my passion and personal commitment to education began with my father, former tribal chairman of the San Pasqual Band of Mission Indians.

In April of last year, the President signed an Executive order to assist American Indian and Alaska Native students in meeting the challenging student academic achievement standards of the No Child Left Behind Act in a manner that is consistent with our tribal traditions, languages, and cultures. The Department's work on implementing this Executive order will be highlighted at a national conference this coming April 6 and 7 at Santa Ana Pueblo in New Mexico. This conference will focus on issues affecting the implementation of NCLB within Indian country. I would also like to invite the members and the staff of this committee to please join us at this national conference.

As you know, 3 years ago the President launched the most important reform of public education by signing into law the No Child Left Behind Act. This law is based on stronger accountability, more choices for parents and students, greater flexibility for States and school districts, and the use of research-based instructional methods. The overall goal is to ensure by the year 2013–14 school year every student, including our American Indian and Alaska Native students, will be proficient in reading and math.

States, school districts and schools are working hard to implement NCLB, and the early returns are promising. A study from the Education Trust showed that in States with 3 years of comparable data, 23 of the 24 States increased student achievements in reading. We are also moving in the right direction for our Indian students. The gap between Indian students and white students in reading achievement grew smaller in 13 States and remained the same in 2. In math, that gap narrowed in 14 States, widened in 2, and remained the same in 2.

The President's fiscal year 2006 budget builds on the NCLB Act by extending its principles and reforms to the high school level. In too many schools across the Nation, the longer students stay in school, the more they fall behind, with far too many students dropping out. The 2006 budget request includes almost $1.5 billion for a new high school initiative which will help to ensure that every student, including our Indian students, not only graduates from high school, but graduates prepared to enter college or the workforce with the skills he or she needs to succeed.

This is especially important for Indian students who continue to be disproportionately affected by poverty, low educational attainment, and fewer educational opportunities than our other students. The 2006 budget request for the Department supports the President's commitment to provide resources to help improve educational opportunities for all students.

Indian students will continue to benefit from the implementation of NCLB, as well as new initiatives to improve the quality of secondary education. Overall, our estimates show that the Department programs would under this fiscal year proposed budget in

2006 provide approximately $1 billion in direct support specifically for American Indian and Alaska Native students.

In addition, significant funds are provided to Indian students who receive services through our broader Federal programs such as ESEA Title I grants to LEAs and our IDEA state grants. The Department recognizes the implementation challenges facing some of our Indian students in our rural communities and is committed to working with our local, state and tribal governments to resolve these issues and has provided flexibility to rural districts in implementing the provisions of the law.

The President's budget request for the Department's Office of Indian Education programs is $119.9 million. These programs include formula grants to school districts, competitive grants, and national activities for research and evaluation on the education needs of our Indian students.

I thank you for the opportunity to appear before this committee, and my colleagues and I will be happy to respond to any questions you may have.

[Prepared statement of Ms. Vasques appears in appendix.]

The CHAIRMAN. Thank you very much.

Mr. Cason, why are you proposing to take a pause in Indian school construction?

Mr. CASON. Mr. Chairman, it is a reflection of the escalating of unobligated funds in the school construction program. Over the last 4 or 5 years, counting the 2005 budget, Congress has been very gracious to provide about $1.5 billion of additional funds to the Department of the Interior for the purpose of school construction. At the pace that the Department of the Interior has actually constructed schools has left us with an unobligated balance just under $200 million. So the thought on the part of the Department was to basically continue our commitment, but at a lower level while we worked our way out of the unobligated balance problem.

The CHAIRMAN. There is a cut in Indian water settlements despite the fact that there have been several of them that have been made, agreements.

Mr. CASON. It is my understanding, Mr. Chairman, that in the cut on the water settlements, that was a reflection of settlements that had actually been implemented. We are in continuing discussions with a variety of Indian tribes about other claims for water settlements. Once we reach a position where a settlement is agreed to, we will have to ask for appropriations for those.

The CHAIRMAN. Mr. Swimmer, in the case of the $135 million for historical accounting activities, about $95 million will be expended on individual Indian money accounts that are involved in the *Cobell* lawsuit. Is that correct?

Mr. SWIMMMER. Yes.

The CHAIRMAN. What will Indian country get for the $95 million?

Mr. SWIMMER. The continuation of the historical accounting, according to the plan that the Department submitted to the court in January 2003. This plan which is a comprehensive accounting is we believe the statute-required. It is an accounting for individual account holders that had accounts with the Department with the Indian Affairs, that went back to the time of the 1994 Reform Act, and from the time that those accounts were set up. The money is

used for a transaction-by-transaction accounting, to develop an account statement for each individual Indian account holder, and then at a certain level of accounting, that accounting would be we would use a statistical sampling to get there. But we had estimated that the cost of that accounting would be approximately $335 million. The money that we are asking for is simply to go to the next phase of the accounting and complete certain accounting that we are engaged in now.

The CHAIRMAN. Do you agree with me about self-governance?

Mr. SWIMMER. Absolutely, Senator. As you may recall in my previous period at the Department, I was one of the proponents of the Self-Governance Act itself, and strongly support self-governance, as does the current Secretary.

The CHAIRMAN. Thank you.

Dr. Grim, as you know, this committee expended a lot of effort last year to reauthorize the Indian Health Care Improvement Act and we intend to pick up that again this year. I would like you, if you would, for the record to provide me with the recommendations that you think need to be made in the legislation so we can get full Administration support.

Mr. GRIM. Yes, sir; okay, we will do that.

The CHAIRMAN. Thank you.

Ms. Vasques, the budget proposes a reduction in the Department of Education of about 2.9 percent from 2005. How will the tribal and BIA schools be affected by this cut in light of the requirements of the No Child Left Behind Act?

Ms. VASQUES. Sir, most of our Indian students that are in our BIA schools are being served by our title I and our Special Education Program. Those two particular programs have received an increase of about a total of $1 billion that goes directly to the BIA to serve those students.

The CHAIRMAN. So they will have no trouble having sufficient funding to comply with the No Child Left Behind Act?

Ms. VASQUES. Yes, sir; I feel it is sufficient.

The CHAIRMAN. Mr. Liu, you want to move the CDBG from HUD to Commerce. That is the Administration's proposal. Under the law, 1 percent of CDBG moneys are reserved for Indians. Does the Administration propose to continue the 1 percent set-aside?

Mr. LIU. We are planning to continue approximately $58 million as part of the Indian housing block grant set-aside, as part of HUD's budget. Because of the nature of the change, I do not think the percentage still would hold, but the administration of the program would stay within HUD within the Office of Native American Programs as it is currently being managed right now.

The CHAIRMAN. Senator Dorgan.

Senator DORGAN. Mr. Chairman, thank you very much.

I also thank the witnesses for appearing. Let me ask a series of questions of the witnesses. The testimony, Mr. Cason, that you offered indicated that the Administration has a continued commitment to Indian schools. Let me ask a question first, I guess, about something I mentioned in my opening statement, the recommendation that we abandon the funding for the Crownpoint Institute of technology and the United Tribes Technical College [UTTC]. As you know, the Interior Secretary has visited UTTC at my request and

found it to be a wonderful institution, but each year the budget that is sent to us, or the appropriation request that is sent to us from the President, eliminates the funding for United Tribes Technical College. Can you tell us why?

Mr. CASON. Yes, Mr. Vice Chairman; UTTC and Crownpoint are schools that receive funding from other sources, the Department of Education. When we take a look at our budget and the priorities that we have, the Department of the Interior takes a look at the 27 tribal colleges and universities that are funded through our programs. We also take a look at Crownpoint and UTTC. They end up having funding from other sources, the Department of Education.

When we take a look at the comparable funding between what the tribal colleges and universities get under our lines authorities and what UTTC and Crownpoint get under theirs, it is our sense that we need to prioritize the funds that come through our appropriations for the tribal colleges and universities.

Senator DORGAN. But you have also requested a decrease in funding for tribal colleges. Is that not correct?

Mr. CASON. I am not positive, Mr. Vice Chairman. It is my understanding that the amount of funding that we are looking for is about stable. I am not sure if there is a small change in one direction or the other.

Senator DORGAN. Mr. Cason, I am positive.

Mr. CASON. Okay.

Senator DORGAN. You are requesting a cut in funding for tribal colleges. The reason I mention that is you describe the commitment to tribal colleges as a basis for suggesting you perhaps do not have the money for UTTC and Crownpoint. I must say that the evidence is that we are, I believe, only at about 50 to 60 percent of that which we commit in support for people that are attending community college, versus those who are attending tribal colleges.

I would agree with my colleague Senator Conrad that it is a wonderful investment, the tribal college investment. Senator Burns and I have pushed very hard on the Interior Subcommittee to increase some funding requests in recent years for tribal colleges. It is a fact that the tribal college funding request is down.

Let me just say again that I think from a priority standpoint, I think that the investment in tribal colleges is proving to pay dividends. I think Senator Domenici would say, and I would certainly say, that UTTC and Crownpoint are evidence of those great successes as well. While I believe we will be able to put the funding in for those two institutions, I hope that at some point in the future the Administration will see fit to include funding requests in their budget.

Let me ask Dr. Grim, let me say that I deeply appreciate the commitment of so many people working at the Indian Health Service. I go around to these clinics and facilities and you have some very committed people. I understand why all of you are here, and that your job is to support the President's budget request. That is why you are here.

Yet, I know from my observations, and I know from evidence, that we are required to provide funding for health care for two groups of populations. One is our trust responsibility for American Indians, and the other responsibility is for Federal prisoners. I also

know that we spending about twice as much on a per capita basis for health care for Federal prisoners as we are for meeting our trust responsibility for American Indians. I think you see that when you go around and take a look at the IHS and tribal clinics and the conditions, despite the valiant effort of some wonderful professional people out there.

So I look at that, and I say we are really underfunded with respect to health care. I mentioned Avis Little Wind, who hung herself, a poor child that really lost hope and had serious emotional problems, but there was not enough mental health capability available. There were not the skilled people available to be able to provide services to her, so a young girl dies.

How do we deal with that? You are obviously, you cannot be satisfied that we are meeting the needs with this funding, are you?

Mr. GRIM. I actually am very pleased with the 2006 budget request that came forward for the Indian Health Service. As I said earlier in my oral remarks that it really represents I think the requests of tribal leadership across the Nation. We consulted with them and have for some years. One of the things that they have told us is that the population growth in the Indian communities, as well as the inflation that each of our budget sub-line items has had to absorb over the years, is something that they felt was higher priority, as well as making sure that the pay increases for all the employees were in there.

I think if you take a look at the 2006 budget for the Indian Health Service and you look at it line item by line item, you will see some fairly significant increases for programs that in past years have had relatively flat budgets. So I think it is a good budget this year. Many programs are going to have increased capabilities because of it.

Senator DORGAN. So you are well satisfied that we are meeting those needs. I talked to the chairman some while ago. We are going to do some work I hope especially on the issue of teen suicide. A reservation not far from my home had three teen suicides recently. I mentioned Avis Little Wind. As I went up and met on that reservation where Avis Little Wind lived, I discovered that there just were not the resources available, the psychologists, the psychiatrists, not available. They had to beg and borrow a car to take somebody to a clinic someplace because there was no vehicle available, let alone a health care professional.

I am a little surprised that you are well satisfied with the request level of funding because I deeply admire your work and the work of the service, but, I am not satisfied that the resources are available to deal with the issues. I hope we can talk about that at some point later.

Mr. Liu, on the housing issues, the chairman asked the question about the block grants. When all is said and done, where are we with respect to housing, this budget versus previous budgets, in terms of housing on Indian reservations?

Mr. LIU. For the Native American Housing Block Grant Program, relative to the intense competition within HUD for the housing dollar, the Native American Housing Block Grant Program was not at the bottom rung. There was a cut, no doubt about that.

Senator DORGAN. How big is the cut?

Mr. LIU. It is about 6.3 percent, but if you compare it to another program I manage within HUD, the Public Housing Program, the capital fund for public housing took almost an 11 percent hit. Some of the context of this has to do with our section 8 tenant-based program within the Department, which has escalated at such a pace that frankly it has eaten into every other program area of HUD. Congress recognized this at the end of 2005. It had to cut every program at HUD except for section 8 by over 4 percent. We hope to get reform this year so that we can alleviate to some extent the pressure within our housing area.

Senator DORGAN. But there is a cut in housing of 6 percent?

Mr. LIU. Yes; 6.3 percent in the block grant.

Senator DORGAN. I mention it again, I really think again from my tours of reservations, we have a real serious problem with respect to Indian housing. I think it is almost a crisis. I have toured housing units again that are third world condition. When we look at this, the priorities that I see are comparing needs here to needs elsewhere.

I will finish up, Mr. Chairman, by telling you that this morning I was looking at a little project in the budget that was recommended to have double funding. It is called Television Marti to broadcast television signals into Cuba. They want to double the funding for it now. We have spent close to $200 million on it, and we send television signals to Cuba to tell the Cuban people how wonderful things are in America, and Castro jams all the signals. So we send signals no one can receive. We have done it for about 15 years and we are going to double the funding for it.

When you look at that sort of thing, and then you say, okay, they want double the funding to send television signals no one can receive in Cuba, and you want to cut funding for housing on Indian reservations, I say, well, there is something really screwy about this, to use a term of art.

So look, all of you are here representing a budget. I understand that. There are some things in this budget that I think make sense; some that I think are vastly shorted in terms of the priorities. Mr. Swimmer, I am with the chairman. We really need to find a way to get our arms around this issue and find a way to put it behind us in a way that is fair to everybody so that we can get on with some of these other significant priorities. I hope that we can make progress. I know the chairman is very committed to that, as am I, but you have to have all the stakeholders involved and find a way to negotiate and reach a consensus.

So let me thank the panel. Mr. Chairman, thank you for the opportunity.

The CHAIRMAN. Thank you. Let me just say again that we intend to give this *Cobell* issue a shot. If it does not work, we are going to move on. We are not going to have it drag out. I am serving notice to all parties and participants if they want to go 10, 15, 20 years in court, that is fine with me, but we are going to give them a one shot opportunity because I am not going to let it tie up this committee the way it has in years past. I have great confidence in Mr. Swimmer and others who are involved in this issue.

Mr. Cason, I think we are about 2 minutes from your hour. So I thank the panel and I thank you, and I am confident we will be

seeing you a number of times in the future as we address these issues. Thank you for appearing here today.

Our second panel is Tex Hall, president of the National Congress of American Indians; Chester Carl, chairman of the National American Indian Housing Council; John Thomas Petherick, executive director of the National Indian Health Board; and David Beaulieu, president of the National Indian Education Association.

Let us begin with an old friend of the committee's, Tex Hall, the president of the National Congress of American Indians. Welcome back.

STATEMENT OF TEX HALL, PRESIDENT, NATIONAL CONGRESS OF AMERICAN INDIANS

Mr. HALL. Mr. Chairman, Mr. Vice Chairman and members of the committee, thank you for the opportunity to appear to testify before the Senate Committee on Indian Affairs and present the views of the National Congress of American Indians on the Administration's fiscal year 2006 budget request for Indian programs.

This is my first opportunity to speak publicly with the new leadership of this committee. I would like to say publicly how much all of the member tribes of the National Congress appreciate both of your service. Chairman McCain, it is an incredible honor for Indian Country to once again have your leadership on this very important committee to us. Vice Chairman Dorgan is from my home State of North Dakota, and I cannot tell you how proud all of us in North Dakota that you are on this committee and this leadership position, and representing not only us, but Indian country as well.

We are very glad you are having a hearing on this topic, Mr. Chairman, and look forward to working with you and Vice Chairman Dorgan to ensure that the critical programs and initiatives authorized and supported by Indian country and this committee are funded at levels which will ensure their effectiveness.

As we know, on February 7, President Bush submitted a budget to Congress that included numerous proposed cuts for Indian programs. The budget would continue to 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 TPA, which is tribal priority allocations; education; contract support for self-governance; housing; infrastructure; land consolidation; and the elimination of funding for tribal colleges such as what you mentioned, Senator Dorgan, United Tribes College of Bismarck and Crownpoint Institute in New Mexico.

The President's proposed budget is $108 million below the fiscal year 2005 budget for BIA programs. The request cuts $86.9 million from BIA construction. Overall, the Indian programs targeted for reduction include Indian housing would receive the largest cut of $105 million in Indian housing. Native American housing block grants would be cut overall by $44 million and section 184 home loans cut by more than 50 percent. And the request cuts $85 million from Indian health service facilities construction budget.

While Congress has authorized important projects such as the Dakota Water Resources Act, Mni Wiconi. These projects have been underfunded or not funded at all. My friend from North Dakota, Congressman Earl Pomeroy put it like this: Indian nations are the last to get funded and the first to get cut.

Mr. Chairman and Mr. Vice Chairman, on behalf of Indian country, I am asking for your leadership to put an end to this practice of cutting and this Federal trend of reducing Indian budgets. At NCAI, we are all too aware that discretionary domestic programs such as ours are often seen as the easiest to cut, but when these cuts are made, they are made with our money, and that is wrong.

The United States, as we all know, has a solemn and moral duty to honor its treaties and fulfill the trust responsibility from the United States. The tribes of NCAI are deeply disappointed this budget does not support strong self-government and self-determination. As you know, many tribal governments are exactly like State and municipal governments, providing critical services, shaping values, and promoting jobs and growth in Indian country. Though Federal spending for Indians has lost ground compared to the U.S. population at large, tribal self-governance has proven that the Federal Government that invests with the tribes pays off.

As Senator McCain mentioned, the Harvard Project on American Indian Economic Development, this study shows that reservation communities have made remarkable gains in the last decade, and these gains are attributed to self-determination. However, substantial gaps remain per capita on 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, and there is a lot of work that self-determination, which has made progress, has still yet to do.

In short, tribes have prove success in addressing the long enduring social and economic disparities on Indian reservations. This warrants continued investment into our self-determination.

Health care and housing services, like law enforcement, were guarantee to us by a treaty. We already paid for that, as we know, with the 3 billion acres of ceding of land. As Congress reshapes its 2006 budget, NCAI continues to urge its commitment. We have recently launched a National Center for American Indian Research and Policy to deal with the part of the program assessment rating tool that OMB is requiring.

I do want to conclude with three key areas in the budget that the tribes have targeted. First, tribal leaders have identified law enforcement, justice and homeland security as key concerns in the 2006 budget. As DOJ implements drastic programmatic changes, NCAI calls on Congress to ensure law enforcement activities in Indian country are supported through sufficient funding essential for full realization of the tribes' government.

Second, tribal resources continue to be diverted to the Department of the Interior's reorganization which tribes have opposed and which fail to take into account the need for local flexibility and the results of the 2(b) study which was recently completed by the Department of the Interior. Until a better plan which reflects true consultation with tribes who know best what works with trust

management at the local level, a moratorium must be placed on funding further reorganizations.

A much more effective use of funds would be focused on funding of ILCA, the Indian Land Consolidation Act. No increases were requested for the ILCA fund from the 2005 enacted level, which would be about one-third of the authorized 2006 level. The investment in land consolidation would do more to save on future trust administration costs than any other item in the trust budget.

Finally, self-determination programs throughout the budget, initiatives that Congress and the Administration have expressed consistent support for, have not only failed to receive needed funding increase, but face cuts which will deeply hurt tribes' ability to effectively assume local control and the shrinking TPA, tribal priority allocation, budgets; inadequate 638 pay cost increase; insufficient contract support funding; and grossly underfunded administrative cost grants.

I look forward to answering any questions you may have at the conclusion.

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

The CHAIRMAN. Thank you very much.

Mr. Carl, welcome.

STATEMENT OF CHESTER CARL, CHAIRMAN, NATIONAL AMERICAN INDIAN HOUSING COUNCIL

Mr. CARL. Thank you very much, Mr. Chairman, Chairman McCain and Vice Chairman Dorgan and other distinguished members of this committee. My name, as noted, is Chester Carl. I am happy to be back before this committee once again as chairman of the National American Indian Housing Council.

On behalf of the members of National American Indian Housing Council and its board of directors, I would like to thank you for this opportunity to address you today on the President's proposed budget for fiscal year 2006.

There is not much I can say that has not already been said, or anything I could present that would better illustrate the need of Indian country. Everyone here knows the crisis that we as Native Americans face and Native Americans are three times more likely to live in overcrowded conditions than any other Americans in the United States.

Native Americans are more likely to lack sewage, water systems; more like to lack telephone lines and electricity than other Americans. We have pleaded our case over and over with statistics and heartrending stories. Today, what has it come to? The last time I testified at an Indian Affairs budget hearing was 2002. That was the first year we began to see a decline in the Indian housing budget after several year of surplus and growth.

Today, it is much different. The President's fiscal year 2006 budget proposes the smallest amount of funding for Indian housing programs since the implementation of NAHASDA.

The tribes' access to funding for basic housing would be reduced by more than $100 million. I heard the assistant secretary say the budget will be cut by 6 percent, but in doing my simple math, I am coming up with $108 million that would be reduced from the NAHASDA allocation.

John F. Kennedy once said, man holds in his mortal hands the power to abolish all forms of human poverty, and to the third world nations, developing nations struggling to break the bonds of misery, JFK pledged our best efforts to help themselves. The world has not changed in the last 40 years, as we see in the current efforts in Iraq. But how disturbing that the Federal Government had to look outside its own borders to identify human need, to justify continued dedication of billions and billions in funding to improve living conditions of the Iraqi people, when so many of our American Indian and Alaska Natives daily endure the same third world conditions.

Where are the best efforts to help Native Americans help themselves? Certainly not in this budget. We understand the need to protect our borders. Native Americans have made significant patriotic commitments to ensuring the freedom of all people as Native Americans have the highest percentage of military service of any ethnic group in the Nation. Our proposed initiative today will seek to honor the dedication of our Native American veterans. But I believe I speak for all members of the National American Indian Housing Council when I express my frustration and anger at the national priority shift to aid people 8,000 miles away, being paid for by those Americans who least can afford it.

While assistance to the Middle East is admirable, America seems to never have understood the urgency of the need to lift people from poverty and ignorance and despair here at home in order to strengthen this country. The poverty rate for Native Americans continues to hover at 26 percent, over 50 percent in my own Indian nation, is more than double the poverty rate for the general American population.

We understand that fiscal year 2006 will be the tightest budget in history, but we also understand that in making these decisions, Congress has to keep in mind that inflation has steadily risen over the last 4 years. For the Native American housing block grant, the President has proposed $582.6 million for fiscal year 2006. This is a devastating blow, particularly in light that the proposed set-aside for Indian community development block grant is now identified as a set-aside of the NAHASDA block grant.

In enactment of NAHASDA, I do not believe there was ever other authorization by Congress to have a set-aside authorized in the community block grant. I believe also that, Mr. Chairman, you thought in the enactment of NAHASDA that negotiated rulemaking be part of that legislation. I believe that you stood behind the tribes to recognize the government-to-government relationship. Not only is the Indian community block grant not authorized under NAHASDA, the Federal agency failed to even consult the tribe on making that move. From day one on the enactment of NAHASDA, we have yet to consult with HUD on how the Act could be implemented.

I stand by Tex Hall in modeling NAHASDA after Indian Self-Determination Act for this very simple reason. Yesterday, we met with OMB and HUD officials. They basically said, in order for you to succeed, you have to measure social changes; how NAHASDA has made social changes. But we are faced, Mr. Chairman and hon-

orable committee, many of the housing authorities will be facing shutdowns of their doors if there is not increased funding.

So what we are asking is that we model NAHASDA on the Self-Determination Act, and I suggest to you today that housing funds be restructured similar to in the Indian Housing Self-Determination Act, Education Assistance Act, Public Law 93–638, which would streamline the funding and the tribes can identify how they make those social changes, rather than having to comply with the strict requirements of the HUD paternalistic-type program.

Also, Mr. Chairman, I would also like to offer as a recommendation on behalf of the Native American veteran a new opportunity called the Native American Veteran Housing Opportunity Initiative. Indian tribes take great price in the role that Indian men and women play in the United States armed forces, particularly those serving in this time of war. I ask you to keep in mind the families they leave behind and the millions of dollars the President has proposed to cut from Indian housing programs that directly affect those families.

The funding helps provide basic infrastructure in housing to some of the most remote, isolated areas of our Nation. We are deeply concerned that our warriors are returning home from Iraq to housing conditions that are as bad or worse than they left in Iraq. They also face chronic unemployment and lack of meaningful economic opportunities.

So thus, Mr. Chairman and honorable committee, I ask for a set-aside of $150 million to be distributed in allocation formula out of the Defense budget to help, as a small price to pay to honor the sacrifice of these brave men and women. The President on Monday proposed $82 billion to help the commitment, not only to the Iraq conflict, but replacement of the equipment for the war, the Tsunami, the Palestine, different types of initiatives. For what we ask today is a very, very small price.

Mr. Chairman, I call on you as the commander to the chief commander of the United States, and the people of this country to join in a vast cooperative effort to satisfy the basic needs of not only the Iraq people, but also the Native American people.

Thank you very much.

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

The CHAIRMAN. Thank you very much.

Mr. Petherick.

STATEMENT OF JOHN THOMAS PETHERICK, EXECUTIVE DIRECTOR, NATIONAL INDIAN HEALTH BOARD

Mr. PETHERICK. Good morning, Chairman McCain, Vice Chairman Dorgan and distinguished members of the Indian Affairs Committee. On behalf of Chairman Sally Smith of the National Indian Health Board, who could not be here this morning because she was unable to travel from Dillingham, AK, I will present on behalf of the National Indian Health Board.

Before I begin, my remarks are going to be brief this morning. I ask, Senator, that Sally's full written statement be entered in the record.

The CHAIRMAN. Without objection.

Mr. PETHERICK. Senator Dorgan, thinking about one of the first issues that you brought up, as far as the Federal per capita expenditures for prisoners as opposed to American Indians and Alaska Natives, I think that is something that Indian country has heard about for a long time, but I do not think that message really resonates to the general population.

When we start looking at it in real terms, when we start thinking about, I am from Oklahoma and the thought of Terry Nichols, who is serving a life sentence in Federal prison receives twice as much health care expenditures as my grandmother or various other American Indians or Alaska Natives across this country, that is incomprehensible.

Also, when we think about over in Northern Virginia, we have Zacarias Moussaoui, who is in Federal custody. He also has those same opportunities where our elders and children do not. And even an example of Martha Stewart, who is a multi-millionaire or billionaire even, and has the opportunity for guaranteed health care that the American Indians and Alaska Natives do not necessarily get, that is a trust responsibility of the Federal Government. I think that that is something that we want to work toward changing and make sure that that message resonates beyond this committee to other members of Congress and the Administration.

But going into the 109th Congress, we knew that things were going to be tough, given the fiscal situation the country is facing. Kind of going back to the tribal consultation sessions that the Department of Health and Human Services and Indian Health Service conducted, especially the Indian Health Service, and now the Department has a tribal consultation policy, it is a very valuable process and they really do work with tribes to develop priorities.

But we knew it was going to be tough, and once the President's request came out, it was not really a surprise. But we realized that there were some tough decisions to make and the Department and OMB and the Administration and IHS did try to make an effort to make sure that population increases, as well as inflation, were taken care of.

In saying that, though, and they did make a substantial effort to do that, we have to really look at the trends. Even though they made an effort to make sure that inflation and population increases were at least looked at and at least tried to address them, given the limited funding, it really cannot be done with just a 1-year increase. You have to look at the trends over the last several years of how we have gotten here, and we are in a hole. There are programs such as Medicare and Medicaid which have fixed increases every year based on population growth, based on several other factors. Indian country does not get that, and that continues to be an issue, like I said, with the trends over time and those kind of continually being underfunded.

Also on top of that, we also want to think about the fact of a few of the highlights of the President's budget request. Again, with the fact that we are looking at limited funding and only a $63-million increase, which is about 2.1 percent over fiscal year 2005 enacted, even though we have fared much better than several other agencies who are facing substantial cuts this Congress, it is really not enough to serve our population. So what is going to happen is we

are going to have diminished services and people are not going to be getting the care that they desperately need.

In looking at those tough decisions that were made, and in looking at the President's budget request, a few things did stick out that I would like to address this morning. The first, obviously, is the health care facilities construction line item, which took a substantial hit. I believe it was in the neighborhood of about $85 million, leaving a little over $3 million for that line item. One of the things as we were discussing and preparing for this testimony, it became clear that the rationale for this was the 1-year pause or moratorium or building new facilities.

Health care in Indian country, diseases and illnesses, do not take a 1-year pause. If indeed this is only a one-year pause, it is going to take another decade at least for us to try to get out of the effect of this 1-year pause. Honestly, once facilities are built in Indian Country, they are already too small. They are already outdated. That would be a substantial blow to Indian country if those funds were not restored. So Indian country feels very strongly that those funds are indeed restored.

Also looking at one other item that I wanted to bring up as well is the issue of rescissions. We feel that Indian Health Service should be exempt from any rescissions. We foresee that they will be coming this year, as they have over the last several years. Because of the fact that looking at the Indian Health Service, along with the Department of Defense, along with the Veterans Health Administration, the Indian Health Service is a direct service provider. They provide health care directly to American Indians and Alaska Natives. By virtue of that, they should be exempt from any rescissions. We would ask that you as members of this committee support that effort.

Again, if I could just make one more point about health facilities construction line items. I think one of the other issues that Indian Country has concern is looking at the PART scores that President Hall had mentioned. When looking at the PART scores and looking at health facilities construction for the IHS, which they were measured for fiscal year 2006, they scored very well. They scored an effective rating. It really kind of goes against our thoughts of effectiveness and efficiency to cut a program that has been deemed effective.

So we feel that should be rewarded, rather than punished, and we would hope that you all would work with IHS.

The CHAIRMAN. If they are not efficient or effective, we should increase funding?

Mr. PETHERICK. Well, honestly, that is how I think that, in looking at——

The CHAIRMAN. So we reward inefficiency and ineffectiveness?

Mr. PETHERICK. I think that partially some of the efforts have been, well, I guess from a tribal perspective, the fact that a program is deemed effective, they have not really gotten any sort of reward or anything for that.

The CHAIRMAN. I have to tell you, it argues for me to change the program or eliminate it. I do not think the taxpayer should increase funding for programs that are both inefficient and ineffective.

Mr. PETHERICK. And I think this is something that Indian country has grappled with. Indian country has done a tremendous job, especially within the Indian Health Service to make sure that they are utilizing dollars in the most efficient way.

The CHAIRMAN. So you disagree with the rating process then?

Mr. PETHERICK. I think not necessarily the rating process, but I think Indian country views that there should be some sort of, I do not know if you want to call it an incentive system or something, but there needs to be some protections built in place if we are indeed showing that we are effective, then it is contrary to just commonsense to cut programs that are efficient.

The CHAIRMAN. Again, in all due respect, the supposedly objective rating system rates some of these programs as ineffective and inefficient. So I am sure if I was running a program, I would never view them that way. That is why we have objective assessments of programs. And there comes your assistant to give you a very effective rebuttal to that statement. [Laughter.]

Mr. PETHERICK. Pardon us.

The CHAIRMAN. Go ahead if you would like to say more. Seriously.

Mr. PETHERICK. I think what we were mentioning is the fact that the health care facilities construction program within IHS has been deemed effective, according to the PART assessment. But at the same time while they are being judged effective, they are being cut by $83 million.

The CHAIRMAN. That is a point well made. Thank you.

[Prepared statement of Sally Smith appears in appendix.]

The CHAIRMAN. Mr. Beaulieu.

STATEMENT OF DAVID BEAULIEU, PRESIDENT, NATIONAL INDIAN EDUCATION ASSOCIATION

Mr. BEAULIEU. Chairman McCain and Vice Chairman Dorgan, my name is David Beaulieu. I am president of the National Indian Education Association and a member of the Minnesota Chippewa Tribe from the White Earth Reservation in Minnesota. And also, I have recently joined the faculty at Arizona State University this July. It is a pleasure to be there and to be working in Indian education at ASU.

It is my pleasure to be able to offer the ideas and opinions of the National Indian Education Association before this committee on the fiscal year 2006 President's budget request. Founded in 1969, the National Indian Education Association is the largest organization in the Nation dedicated to Indian education advocacy. It embraces the membership of over 3,000 American Indian, Alaska Native, and Native Hawaiian educators, tribal leaders, school administrators, teachers, parents and students.

NIEA makes every effort to advocate for the unique educational and culturally related academic needs of Native students, and to ensure the Federal Government upholds its immense responsibility for the education of American Indian and Alaska Natives through the provision of direct educational services incumbent in the trust relationship of the U.S. Government, including the responsibility of ensuring educational quality and access.

Although National Indian Education Association supports the broad-based principles of No Child Left Behind, there is widespread concern about the many obstacles that the NCLB presents to Indian communities, who often live in remote, isolated, and economically disadvantaged communities, particularly in rural areas. There is no one more concerned about accountability and documented results than our membership. But the challenges many of our students and educators face on a daily basis make it difficult to show adequate yearly progress and to ensure teachers are the most highly qualified.

We support generally looking into the specifics of the statute and looking for flexibility that makes sense to Indian education and to meeting the goals of this statute, and to funding it so that we can indeed accomplish those objectives.

President Bush's budget proposes $529 million, or a .9-percent decrease in education, equaling $69.4 billion in total budget authority for the Department of Education. The request for Alaska Native Education Equity and Education for Native Hawaiians is reduced by 5 percent and 8 percent, and Indian education program funding remains at the same level as fiscal year 2005 at $119.9 million, and down from fiscal year 2004 and fiscal year 2003 levels. Inadequately funding Indian education programs will diminish, if not undo, any progress we have made.

Within the No Child Left Behind Act is the Indian Education Act, Title VII. That particular section requires unique purposes which speak to meeting the language and culture needs of American Indians and Alaska Natives, and also using culturally based education approaches to accomplish achievement. Also within title III there are provisions that allow for Native language teachers to be trained and for Native language programs. We believe the broad implementation of this statute is threatening language and culture programs, and the broad intention of making sure that our students' unique educational needs regarding language and cultures are being eliminated from our schools.

Increasing the Department of Education budget for Native education programs by 5 percent would provide a step forward in helping Native students to achieve the same high standards as other students nationwide, while at the same time preserving and protecting the integrity and continuity of our cultural traditions. We realize that 5 percent will not address all of the needs, but we find the request to be reasonable and sensitive to the current budget environment.

Proposed programs for elimination have a direct impact or effect upon Native students, including TRIO Talent Search, TRIO Upward Bound, Even Start, Perkins Loans, and Student Dropout Prevention, to name a few. While these programs may have not had the desired results across the board, they have provided enormous benefit to Native students and served their intended purposes in Indian communities. To eliminate these programs would cause a desperate impact upon Native students and upon our progress as those programs have assisted them.

Nearly 90 percent of approximately 500,000 Indian children attend public schools throughout the Nation. Indian students who attend these schools often reside in economically deprived areas and

our impacted by programs for disadvantaged students. The President's fiscal year 2006 budget fails to fully fund the Title I Low Income School Grants Program critical to closing the achievement gap. A modest increase of $602.7 million for this program still leaves more than $7 billion below the authorized levels for NCLB. If the fiscal year 2006 budget is enacted, this will be the first cut in education in a decade, and would completely disregard Native students' critical needs.

Within the Department of Education budget, tribally controlled post-secondary vocational and technical institutions and strengthening tribally controlled colleges and universities' request remain level with the fiscal year 2005 levels at $23.8 million. While the strengthening of Alaska Native and Native Hawaiian institutions receive a 45-percent decrease from 2005 levels at $26.5 million. Tribally controlled colleges and universities receive just under $3,000 annually per student, less than one-half the amount annually provided for students in other community colleges, and do not have access to other state or local dollars, increasing or exacerbating this situation of underfunding. NIEA requests a 10-percent increase in funding to tribal colleges to meet core operational needs.

BIA's budget has historically been inadequate to meet the needs of Native Americans, and consequently our needs have multiplied over the years. The fiscal year 2006 BIA budget fails to fund tribes at a rate of inflation, increasing the hardships faced by Native students. Perhaps the clearest example of unmet needs among Native Americans is the disparity between the amounts spent per student in BIA schools as compared with public schools. BIA schools will spend less than half the amount that public schools nationally will spend. The amount currently spent per student at BIA schools is the equivalent to public school per student expenditures during the 1983-84 school year. BIA schools will spent an amount per student the public schools were spending 20 years ago, while expecting our students to perform at levels in 2006.

The CHAIRMAN. I would ask you to summarize, Mr. Beaulieu.

Mr. BEAULIEU. Okay. Many of the other cuts mentioned have been mentioned by witnesses. In summary, the overall education funding is receiving a 10-percent decrease, $114 million, while overall discretionary spending within the budget is receiving a 2-percent increase. This is a direct violation, we believe, of the trust responsibility for Indian education.

We respectfully urge this committee to truly make Indian education a priority and to work with congressional appropriators and the Administration to ensure that Indian education programs are fully funded.

Thank you very much.

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

The CHAIRMAN. Thank you, Mr. Beaulieu.

The cut is about 10 percent, right?

Mr. BEAULIEU. Total.

The CHAIRMAN. Yes; and what is the population growth, percentage-wise?

Mr. BEAULIEU. I do not know the exact number, Senator.

The CHAIRMAN. Do you know, Tex? I think it is about 2 or 3 percent.

Mr. Hall. I think it is close to 3 percent, Mr. Chairman.

The CHAIRMAN. So we are really looking at 13 percent, roughly.

Mr. Hall. Right. Exactly.

The CHAIRMAN. I thank the witnesses for being here. Thank you for your testimony. Your testimony acknowledges the need for Federal spending and program accountability. For years, I have heard that tribes are reluctant or refuse to share specific data with Federal agencies.

Currently, how do tribes measure the impact or success of federally funded programs administered by self-determination contracts or self-governance compacts, and how do you propose overcoming this problem?

Mr. HALL. Mr. Chairman, clearly the Federal agencies like BIA for example require quarterly reports or SF269s required under your 638 contract. Really, you have to report how you are doing in your scope of work and so on and so forth. Tribes have been doing that for a long time.

I do have a concern with the school construction and Indian Health Services my friend J.D. was talking about. You get a good score, but you lose $85 million in health construction dollars. It just does not make sense. So at the end of the day, the NCAI, as I presented in my testimony, has created a national data center. We really need to get that funded to really look at data, because a lot of times we ask a Federal agency on law enforcement on how do you reduce crime. Well, we get different messages on what the statistics are. So we really need our own center, and that is why NCAI has proposed a national Indian data center to really take charge of our own data because it is our data that is getting cut, Mr. Chairman.

The CHAIRMAN. And share that information with the Federal Government?

Mr. HALL. Yes; we have.

The CHAIRMAN. I mean, this center would do that?

Mr. HALL. Oh, excellent, excellent. Yes, it would.

The CHAIRMAN. Back to you, Mr. Beaulieu. Do you have an estimate yet on the impact that the No Child Left Behind Act has on tribal schools?

Mr. BEAULIEU. An estimate on the impact it has? We believe that the implementation of the Act is not working, that many of the impacts that exist there in terms of the ways in which the annual yearly progress is occurring, the fact that we have schools being measured year to year on a single test without documenting the actual progress being made. We think we are making incredible progress actually, but it is not being accounted for in many ways.

The CHAIRMAN. So what do we need to do?

Mr. BEAULIEU. We need to create greater flexibility to recognize unique circumstances of those schools within the statute to allow for indicators of progress, to allow for improving the definition of "highly qualified." Rural areas, you know, having a subject matter specialist in every single subject often does not work. We realize that we also need teachers that are competent and qualified to teach, improving professional development so that they are better able to teach would be a great assistance, and improving the funding level to accomplish that as well would be important.

There is so much focus on testing that the heart and soul of the programs are often being eliminated. We think that is damaging to the quality of our educational programs at the same time.

The CHAIRMAN. Mr. Carl, sort of along the lines of what I was talking with Mr. Petherick about, how did the Native American Block Grant Program fare under the program assessment rating tool evaluation, PART evaluation?

Mr. CARL. Mr. Chairman, I am very glad to answer that question. A couple of years ago, HUD gave a report to the committee that tribes were not expending their money. Indian tribes became very alarmed and came back with its own report that there was really no money tied up in the pipeline. The tribes were expending their money.

The tribes are very diligent in not only performing an Indian housing plan that shows in detail how the money is being expended, but also the scope of work. At the end of each year we are required to do an annual performance report. The annual performance report that tribes diligently and work very hard to submit as part of the program requirement unfortunately we found does not make its way to OMB. The performance measures that are set out for this particular grant year, OMB and the tribes do not connect.

In this case, the performance measure that it set out now by OMB and further by HUD requires that the NAHASDA grants bring out social changes of what the NAHASDA grant has provided. But that is like trying to put a square bolt in a round hole because the requirement of NAHASDA as administered by HUD does not have the same criteria.

So I believe in our own research, we have been able to measure not only building homes, but changes in the lives of Native Americans.

The CHAIRMAN. Would you provide that information to the committee, please?

Mr. CARL. Yes; I can.

The CHAIRMAN. Thank you.

I thank the witnesses.

Senator Dorgan.

Senator DORGAN. Mr. Chairman, thank you very much.

Dr. Beaulieu, you heard Mr. Cason say that this budget is a continued commitment to Indian schools. That statement seems to be at odds with your statement. Give me your assessment of that.

Mr. BEAULIEU. Did I write that it was a continuing commitment?

Senator DORGAN. No; I am saying that Mr. Cason when he testified said that the President's budget is a continued commitment to Indian schools. That is vastly at odds with your testimony.

Mr. BEAULIEU. It certainly is, Senator. We do not believe it is a commitment to Indian schools. The reduction in construction, I mean, one has to have a place to learn. The schools often do not meet safety and health standards. The quality of going to school in places that currently exist are disastrous. That is a major issue. It has long been a major issue, as has been the need for repairs in schools. There is a continuing increase in the amount of improvements that have not been met in the existing schools.

Senator DORGAN. That is the point that has not been made. We talk about construction for new schools that are necessary and

need to be built, but there is a massive amount of deferred maintenance that is necessary on schools that already exist. That is not a luxury. That is a necessity. You have to do this maintenance to keep those facilities up to date.

Mr. Chairman, we in North Dakota are very proud of the leadership of Tex Hall, who is serving as you know in his second term as president of the National Congress of American Indians, and he has provided some very effective leadership. We are all very proud of the work you have done, Tex, and are pleased that you are here with us once again.

Let me ask, if I might, what kind of consultation does the BIA undertake, when they begin to put together a budget and evaluate an assessment of the needs in a budget. What kind of consultation has existed there?

Mr. HALL. There is a difference in opinion on what that word means for tribes and for the Administration and the Bureau officials. Each region probably has a budget consultation meeting. Nationally, we have formed a tribal BIA Budget Advisory Council which is meeting in Phoenix Thursday and Friday at the San Marco Resort or something. It is a real nice place. I look forward to going there, Mr. Chairman.

The CHAIRMAN. Very nice. [Laughter.]

Mr. HALL. But on the other hand, getting back to education for example, one of our items is we believe in self-determination and yet the Administration has put a moratorium on any tribes that want to contract their schools. That is against what the consultation with the tribes. On reorganization, the tribes are against reorganization, yet we see hundreds of millions of dollars that are taken from our school construction budgets, put into the Office of Historical Accounting, and we all know, and the *Cobell* plaintiffs know, the records are not there.

So why are we putting it there? Again, that is an example of there is just a complete difference on what consultation means. So it seems like we talk about it, but we just go in different worlds.

Senator DORGAN. Chairman Hall, you heard the statement by Chairman McCain this morning. I feel as he does about the trust issue. We really need to get this addressed and then move on, but it needs to be addressed in a fair and thoughtful way. But if we spend the next 10 years spending billions of dollars doing historical accounting, it is going to detract from needed investments in health care, education, housing, that we just have to find a way to invest in. Tell me your assessment of Chairman McCain's comments this morning. As the Chairman of the National Congress of American Indians, do you feel there is a way for all the stakeholders to understand the urgency of finding a commonsense approach to solve this?

Mr. HALL. I do. I must be a perennial optimist, I guess, but I am encouraged. I have talked with many of the stakeholders, including, I believe Chief Jim Gray is in the audience today. He is the chairman of the Intertribal Monitoring Association, 50 tribes that have large trust accounts. Of course, I am from the Great Plains, Senator Dorgan, from Mandan Hidatsa Arikara. Great Plains has 33 percent of all the accounts.

I have talked to members of the Montana-Wyoming, and they are about 20 percent of the accounts. I have talked to the Navajo Nation and with ITMA and the *Cobell* plaintiffs. I believe all these folks that I mentioned have a big dog in the fight, and they want to resolve it. So we are actually going to be meeting and discussing this tomorrow night at that nice resort at 7 o'clock, talking about this very important issue.

Senator DORGAN. There may be cases where not every stakeholder has a feeling that this needs to be solved now, or that there is any urgency. Some feel that perhaps some years can go by and you exhaust all the last options for them. This, I think, and I would guess the chairman would agree, this is going to take some real leadership in Indian country as well. I think that in order to have a consensus emerge and develop, it cannot be imposed, it has to be a developed consensus that comes from Indian leadership across the country.

So I am pleased to hear your response to the chairman's discussion this morning, because that is the only way this is going to get solved.

Mr. HALL. Senator Dorgan, I am reminded of a lady that has passed on. Her name is Carol Young Bear. I am glad both you and the chairman are concerned about teen suicides. She had diabetes and she had her legs amputated. She was waiting for her IM account check. This is a couple of years ago. Because of the suit and all the litigations, all she wanted was the $1,200 that was in her IM account.

Because she had her legs amputated, she wanted to go to town. She wanted to visit her relatives, and she probably wanted to play bingo. Well, she did not get that check and she passed on. So all she wanted was a used van with a lift to get her to be able to go into her wheelchair and get into that van.

Those are the stories that remind me that with the continued delays, there will be many other Carol Young Bears out there that are not able to live their full quality of life, especially when they are senior citizens. These are their moneys. So it reminds and I think it reminds all of us in this room that this very important issue must be addressed sooner than later.

Senator DORGAN. I think that is an approach that makes a lot of sense. A person that was a member of your tribe, the late Rose Crows Flies High, used to, when she would hear something good from someone in an audience, she would make a unique sound. You might have a name for the sound that Rose Crows Flies used to make.

Mr. HALL. Rattling her tongue.

Senator DORGAN. She would rattle her tongue. She did it very well. I loved Rose Crows Flies High. But if she were here this morning, she would have rattled her tongue when the chairman made his comments, and I think when you just made your comments, because we need to get to the end of this in a way that makes sense.

Mr. Chairman, let me thank those who testified with respect to housing and health care as well. I appreciate the testimony of all four witnesses. I think they contribute to a better understanding of these issues today.

Thank you very much.

The CHAIRMAN. Thank you for being here, witnesses. I am sure we will be seeing you often. Thank you very much.

This hearing is adjourned.

[Whereupon, at 11:15 a.m. the committee was adjourned, to reconvene at the call of the Chair.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF CHARLES W. GRIM, D.D.S, M.H.S.A., ASSISTANT SURGEON GENERAL, DIRECTOR, INDIAN HEALTH SERVICE

Mr. Chairman and members of the committee:

Good morning. I am Dr. Charles W. Grim, Director of the Indian Health Service. Today I am accompanied by Gary J. Hartz, Acting Deputy Director of the IHS. We are pleased to have the opportunity to testify on the President's fiscal year 2006 budget request for the Indian Health Service.

As part of the Federal Government's special relationship with tribes, the IHS delivers health services to more than 1.8 million American Indians and Alaska Natives (AI/ANs). Care is provided in more than 600 health care facilities throughout the country. For all of the AI/ANs served by these programs, the IHS is committed to its mission to raise their physical, mental, social, and spiritual health to the highest level, in partnership with them.

This mission is supported by the Department of Health and Human Services (DHHS); and, to better understand the conditions in Indian country, senior Department and IHS officials have visited tribal leaders and Indian reservations in all 12 IHS areas. And, the Administration takes seriously its commitment to honor the unique legal relationship with, and responsibility to, eligible AI/ANs served by providing effective health care services.

It is Department policy that consultation with Indian tribes occur before any action is taken that significantly affects them. I have the pleasure of serving as the vice chair of the Intra-departmental Council on Native American Affairs (ICNAA) which plays a critical role in the execution of this policy. Budget is an important area of consultation. The Department holds an annual budget consultation session to give Indian tribes the opportunity to present their budget priorities and recommendations to the Department. This year, during the budget consultation process, tribal leaders provide us with their top priorities—inflation and population growth. We heard them and I am proud to say that this budget reflects these clear priorities.

Through the government's longstanding support of Indian health care, the IHS, tribal, and Urban Indian health programs have demonstrated the ability to effectively utilize available resources to improve the health status of AI/ANs. The clearest example of this is the drop in mortality rates over the past few decades. More recently, this effectiveness has been demonstrated by the programs' success in achieving their annual performance targets as well as by the intermediate outcomes of the Special Diabetes Program for Indians. The agencys management of the wide array of IHS programs has also been found to be effective through evaluations using the Office of Management and Budget's Program Assessment Rating Tool (PART). The IHS PART scores have been some of the highest in the Federal Government.

Although we are very pleased with these achievements, we recognize that there is still progress to be made. American Indians and Alaska Natives mortality rates for alcoholism, tuberculosis, motor vehicle crashes, diabetes, unintentional injuries, homicide, and suicide are higher than the mortality rates for other Americans.

Many of the health problems contributing to these higher mortality rates are behavioral. For example, the rate of violence for AI/ANs youth aged 12–17 is 65 percent greater than the national rate for youth.

In trying to account for the disparities, health care experts, policymakers, and tribal leaders are addressing many factors that impact the health of Indian people by increasing preventive services and health screening throughout the Indian health care delivery system. To support this effort, the President has requested an 8 percent increase in funding for preventive health services.

As partners with the IHS in delivering needed health care to AI/ANs, Tribal and Urban Indian health programs participate in formulating the budget request and annual performance plan. The I/T/U Indian health program providers, administrators, technicians, and elected tribal officials, as well as the public health professionals at the IHS Area and Headquarters offices, combine their expertise and work collaboratively to identify the most critical health care funding needs for AI/ANs people. Currant services funding, especially funding for inflation and population growth, has been their highest priority for several years. The budget request for the IHS is responsive to those priorities by including the increases necessary to assure that the current level of services for AI/ANs is maintained in fiscal year 2006, including an increase in services for a growing population.

The President's budget request for the IHS totals $3.8 billion, a net increase of $72.1 million above the fiscal year 2005 enacted level. The request will allow I/T/U Indian health programs to maintain access to health care by providing $31.8 million to fund pay raises for Federal and tribal employees, and $79.6 million to cover the inflationary cost increases experienced by health delivery systems and to address the growing AI/ANs population. Staffing and operating costs for six newly constructed health centers are also included in the amount of $34.8 million. Once they are fully operational, these facilities will increase the number of primary care provider visits at can be provided at these sites by nearly 75 percent, in addition to providing more comprehensive health care services. Additional tribal contracting is supported by an increase of $5 million for contract support costs. This increase will cover the contract support costs of new contracts estimated to be received in fiscal year 2006. The budget proposes savings of $3.1 million from increased efficiencies in implementing information technology and reducing administrative costs. Similar savings are included in the budget requests of the other HHS Agencies.

Consistent throughout HHS, fiscal year 2006 requests for facilities funding focus on maintenance of existing facilities. A total of $3.3 million is included for IHS facility construction, sufficient to fully fund the Fort Belknap staff quarters project which will provide 29 units of new and replacement staff quarters for the Harlem and Hayes outpatient facilities in Montana. Available decent local housing makes it easier to recruit and retain health professionals at remote sites.

American Indians and Alaska Natives will also benefit from several provisions in the recently enacted Medicare Prescription Drug, Improvement, and Modernization Act. The transitional assistance credit of $600 per year for low-income Medicare beneficiaries, including AI/ANs could provide additional Medicare revenue for prescription drugs dispensed at IHS facilities in fiscal year 2005. The Medicare part D prescription drug benefit program, when implemented in January 2006, will extend outpatient prescription drug coverage to AVAN Medicare beneficiaries and increase Medicare revenues at I/T/U facilities. Other sections of the act expand the benefits covered under Medicare part B for AI/AN beneficiaries and allow the IHS and Tribal Health Programs to pay for additional medical care by increasing its bargaining power when buying services from non-IHS Medicare-participating hospitals.

The proposed budget that I have just described provides a continued investment in the maintenance and support of the I/T/U Indian public health system to provide access to high quality medical and preventive services as a means of improving health status. It reflects a continued Federal commitment to AI/ANs.

Thank you for this opportunity to present the President's fiscal year 2006 budget request for the IHS. We are pleased to answer any questions that you may have.

STATEMENT
OF
JAMES CASON
ASSOCIATE DEPUTY SECRETARY
AND
ROSS O. SWIMMER
SPECIAL TRUSTEE FOR AMERICAN INDIANS
BEFORE THE
SENATE COMMITTEE ON INDIAN AFFAIRS
ON THE
FISCAL YEAR 2006
PRESIDENT'S BUDGET REQUEST FOR INDIAN PROGRAMS

February 16, 2005

Good morning, Mr. Chairman, Mr. Vice Chairman and Members of the Committee. My name is Jim Cason and I am the Associate Deputy Secretary of the Department of the Interior (Department). With me today is Mr. Ross Swimmer, Special Trustee for American Indians at the Department. I want to take this opportunity to congratulate Senator McCain and Senator Dorgan in taking on their new leadership roles within this Committee. I would also like to take this opportunity to thank the Committee for all of the work it did to achieve the enactment of Public Law 108-374, the American Indian Probate Reform Act of 2004. This new law provides the Department valuable tools to help us stop the growth of fractionated interests.

We are here today to discuss the fiscal year (FY) 2006 budget for Indian programs in the Department. Our budget is consistent with the President's goal to reduce the deficit in half by 2009. Before we get into specifics of our respective budgets, we would like to highlight several accomplishments this Administration has achieved over the past four years. We have:

- Since 2001, built nine new Indian schools, with 25 more currently in design or under construction to replace, improve, or repair schools in poor condition.

- Generated over 5,000 jobs during the past four years through the BIA Loan Guarantee and Insurance Program.

- Invested $1.7 billion toward managing and improving Indian trust programs between 2001 and 2005, bringing the Department's ten-year investment in these trust programs to $2.9 billion.

- Reengineered trust business processes to provide efficient, consistent, integrated and fiscally responsible service to beneficiaries.

- Reorganized to better meet fiduciary trust responsibilities, we are more accountable at every level, and operate with staff trained in the principles of fiduciary trust management.

- Expanded our land consolidation program to address the growth of fractionated interests in individual Indian allotted lands.

The Bureau of Indian Affairs (BIA) and the Office of the Special Trustee for American Indians (OST) are changing the way we do business by increasing our focus on providing beneficiary trust services that are more responsive and timely than ever before. American Indians in this country look to the BIA for land and natural resource management, education, law enforcement, tribal government assistance, and economic development support. They look to OST for appraisal services and the management of their funds held in trust. The roles BIA and OST play with regard to the management of tribal and individual trust assets are unlike any other the private sector or federal government shares with its citizens and go to the heart of the United States' trust responsibility to members of federally recognized tribes.

The President has proposed a $10.8 billion budget for the Department. The FY 2006 budget request for the BIA is $2.2 billion, a decrease of $108.2 million from the FY 2005 enacted level. Of that total amount, the Operation of Indian Programs account is funded at $1.9 billion. The budget provides increases for law enforcement and detention centers, a leadership academy pilot program, the National Indian Programs Training center, irrigation operations and maintenance, and economic development.

The OST budget request, which includes funding for the Office of Historical Trust Accounting (OHTA), is $303.9 million, an increase of $75.9 million, or 33 percent above the FY 2005 enacted level. The total FY 2006 request will support on-going activities administered by OST, BIA, and OHTA to improve beneficiary services, continue implementation of key components of the Fiduciary Trust Model (FTM), encourage Indian land consolidation efforts, and continue historical accounting activities. Increased funding for OST reflects the efforts to fulfill the historical accounting requirements for Individual Indian Money accounts (IIM) and Tribal accounts as authorized by Congress and directed by the Courts.

The Unified Trust Budget -- Fulfilling Trust Responsibilities

Congress designated the Department of the Interior as the trustee for one of the most complex and diverse governmental land trust ever established. The Department manages approximately 56 million acres of land held in trust. Over ten million acres belong to individual Indians and nearly 46 million acres are held in trust for Indian Tribes. On these lands, Interior manages over 100,000 leases for individual Indians and Tribes. Leasing, use permits, land sale revenues, and interest all of which total approximately $205 million per year are collected for 245,000 open individual Indian money accounts. About $414 million per year is collected in 1,400 tribal accounts for 300 Tribes. In addition, the Department manages approximately $3.0 billion in tribal funds and $400 million in individual Indian funds.

The $1.7 billion that we have invested in trust programs over the past four years brings the Department's ten-year investment in trust management, reform and improvement to $2.9 billion. The 2006 budget

request would provide an additional $591.4 million investment in these programs, including a net program increase of $85.7 million over the FY 2005 enacted level. The funding requested by the Secretary is to fulfill her trust responsibilities and meet the requirements of ongoing litigation within a budget that is fiscally responsible reductions have been made in other areas, which has impacted every bureau and office within the Department, indeed perhaps every program. As is apparent from these numbers, the management and litigation costs currently approach the amount of the total revenue from the trust.

The *Cobell v. Norton (Cobell)* litigation has been pending since 1996 and has had a profound effect on the Department, and the budget for Indian programs. We are looking forward to working with this Committee in pursuing a resolution to the litigation. The *Cobell* litigation and the American Indian Trust Fund Management Reform Act of 1994 have shown us the need to examine closely how we manage individual Indian trust land and individual Indian money (IIM) accounts and to make organizational and programmatic changes that reflect a better understanding of the trust responsibility owed to beneficiaries.

Interior is now spending many millions of dollars a year to keep track of individual interests in Indian trust lands and to manage, collect, and distribute revenue from them. This does not include the costs associated with the litigation of the *Cobell* case. The costs of managing accounts that sometimes have as little as one cent in them far exceed the benefits that accrue to the beneficiaries of those accounts. In contrast, this issue does not arise in the private trust banking industry because individuals pay for such services and obviously refuse to pay fees that are significantly higher than the revenues generated by the trust.

The FY 2006 unified trust budget includes funding to support the re-engineering and reorganization of trust programs and for continued progress in eliminating the backlog of unresolved probate cases and consolidating fractioned interests in allotted lands. The budget also proposes funding increases to continue implementation of the *Historical Accounting Plan for Individual Indian Money Accounts*.

- **Historical Accounting** – The 2006 budget request includes $135 million, an increase of $77.8 million over the FY 2005 appropriation. This increase will continue efforts to reconcile 30,000 transactions in land-based accounts for individual Indian money account holders, determine the proper ownership of and distribute approximately $18 million held in administrative accounts, and image approximately 5 million pages of trust records. The funds also will support tribal historical accounting activity and the administration of potential tribal settlements. In FY 2006, OHTA expects to complete a reconciliation of trust accounts for 10 tribes and image three million pages of tribal documents.

  This budget request is based on an estimate of the Department's costs to continue implementation of its 5 year plan outlined in the *Historical Accounting Plan for Individual Indian Money Accounts*. This amount may be revised depending on any court rulings in the *Cobell v. Norton* case or congressional action delineating the specific historical accounting obligations of the Department. The Department will continue to work with Congress and our beneficiaries to reach a resolution on the historical accounting and related issues.

- **Land Consolidation** – The OST budget includes $34.5 million to continue the nationwide purchase of fractionated land interests through BIA's Indian land Consolidation Program, mirroring the FY 2005 appropriation. Acquisition of these fractionated interests increases the likelihood that the land can be put to more productive economic use, reduces the large numbers of small dollar financial account transactions, and decreases the number of interests that must be probated by the Department. This program currently is operated on 18 tribal reservations in 7 BIA regions. As of December 31, 2004, the Department has purchased a cumulative total of 117,661 individual interests, the equivalent of 86,565 acres. The Department will use this funding and the new tools provided by Public Law 108-374, the American Indian Probate Reform Act of 2004, to constructively address fractionation.

- **Fiduciary Trust Model (FTM)**– On August 11, 2004, the Secretary approved the "To-Be" Model, which will create a more efficient, consistent, integrated and fiscally responsible business model that will better meet the needs and priorities of the beneficiaries while addressing the duties of the Department as trustee. This is now known as the Fiduciary Trust Model. Implementation of these reengineered business processes has begun and the current organization is being transformed into a more beneficiary-centric operation.

  The FTM will allow for:

  - The migration from 50+ fragmented data systems to an integrated nationwide system with automated workflow tools.
  - Automatic tracking and accountability for trust funds throughout the process that includes the collection of receipts, disbursement, and reporting to beneficiaries.
  - Standardized procedures, which will allow for the consistent performance of fiduciary duties nationwide.
  - Greater accountability and protection of trust lands and natural resources.

- **Beneficiary Services:** To date, 44 Fiduciary Trust Officers have been hired nationwide to serve as the primary point of contact for beneficiaries. An additional 8 will be hired by June 30, 2005. Within BIA, additional staffing to provide 12 deputy regional directors and 25 deputy agency superintendents for trust will permit more decisions to be made at the local level and provide for more efficient management of trust assets. In addition, the initial testing phase of the OST toll free Beneficiary Call Center is underway, with full deployment expected by the end of FY 2005. The Call Center provides an additional resource for beneficiaries to ask questions about their trust assets.

- **National Indian Programs Training Center** - The BIA budget includes funding for the National Indian Programs Training Center located in Albuquerque, New Mexico. The training center will enhance and standardize trust and program-related training for Departmental and tribal employees involved in delivering fiduciary trust services and other programs to Indian tribes. In addition, the Center will provide a range of mission critical, leadership, and career development courses to employees of the BIA and OST.

The facility will be located adjacent to the BIA Southwest Regional Office at the site of the former Albuquerque Indian School and will have modern classrooms and employ state-of-the-art computer hardware. The Center will be operated by the Department's University. The FY 2006 budget includes $1.5 million for the lease of the building.

Public Safety and Justice in Indian Country

The BIA provides direct assistance to Tribes for law enforcement programs, including uniform patrol, criminal investigations, detention, and dispatch on approximately 56 million acres of Indian Country in 35 States. Since the beginning of this Administration, funding for BIA law enforcement programs has grown by 85 percent, and Justice has provided over $128 million in funding to construct or expand 21 detention centers serving Indian populations. Justice has also provided multi-year grant money to establish law enforcement positions under the Community Oriented Policing Services program in Indian Country.

Because of the magnitude of challenges that existed in 1999 and that continue to today, law enforcement in Indian Country remains a critical issue in 2006. In September 2004, the Office of the Inspector General (IG) released an assessment of Indian detention facilities that documented poor conditions at many existing BIA and tribal detention centers. The IG report made 25 recommendations to correct deficiencies that impact the safety and security of detention center staff and inmates.

To address the IG's recommendations, we have made management and procedural changes in both our law enforcement and facilities programs. We have developed a strategic plan for detention facilities and are implementing that plan. Over 2,000 identified facilities deficiencies have already been addressed.

To further address several of the recommendations contained in the IG report, the 2006 request includes a $19.2 million increase for law enforcement in Indian Country. The funding will provide an additional $4.4 million for detention center facilities improvements and repairs, almost doubling the program and allowing full renovation of three facilities and major rehabilitation at several other sites. The request provides an increase of $4.1 million for staffing at four new detention centers being built by Tribes with Justice grants that will be certified for occupancy in 2006, and $3.2 million for facility operations and maintenance funding for the 19 detention centers built with Justice grants since 2001. The proposal also provides $5.0 million to contract for placement of arrested and convicted individuals, both adult and juvenile, in safe and secure environments that meet national standards for detention facilities when adequate BIA facilities are not available.

To address law enforcement operations, the budget proposes an additional $2.5 million for 33 law enforcement officers, both BIA and tribal, to improve law enforcement presence in areas with high levels of violent crime in Indian Country along the southwest border and the Pacific northwest.

Indian Education

BIA is one of only two agencies in the federal government that manages a school system, the other being the Department of the Defense. As such, one of BIA's strategic goals is to provide quality educational opportunities for American Indians located on reservations while being cognizant of tribal needs for cultural and economic well-being. Education is the cornerstone of a viable and prosperous future for tribal governments and American Indians. The BIA serves approximately 48,000 students and resident-only boarders in 184 elementary and secondary schools and dormitories located in 23 states. The BIA directly operates one-third of these schools. The remaining two-thirds are operated under contracts or grants to tribes or tribal organizations. In addition, the BIA budget also supports higher education in Indian country. BIA operates two postsecondary institutions and administers operating grants for 26 tribal colleges and universities.

The FY 2006 school operations budget represents a continued commitment to the future of American Indian youth and supports the President's commitment to "leave no child behind." The $521.6 million request for school operations will support 184 schools and dormitories. Ninety-seven percent of this funding will be passed directly to schools and to the tribal authorities that manage schools through contract and grant programs.

In addition, the BIA will continue to focus on raising academic achievement scores and, consistent with the findings of the 2004 Program Assessment Rating Tool (PART) review, will continue to develop academic performance measures that are comparable to similarly located schools.

In order to keep pace with an ever changing world, the focus of the BIA is to instill a desire for life-long learning. This begins at the earliest stage of educational development and continues on through adulthood. The Family and Child Education (FACE) program provides reading resources to parents or guardians with young children and supports families with one-on-one counseling to improve early reading aptitude and school preparation. FACE is available at 39 pre-K – 3 schools and provides services to almost 1,700 students and 1,800 parents per year. The FY 2006 budget request for FACE is $12.1 million.

The FY 2006 funding request for post-secondary education totals $60.9 million. This funding includes grants to 26 Tribal Colleges and Universities, Haskell Indian Nations University, and the Southwest Indian Polytechnic Institute, as well as scholarships for higher education. The budget requests an increase of $250,000 for the student loan repayment program, first implemented in FY 2005. Modeled after similar Federal programs, this program allows BIA to repay student loans for students who agree to a term of employment with the BIA. This program is expected to help the BIA recruit highly qualified new employees.

BIA and the Department of Education continue to work together to improve service delivery of programs that benefit Indian students. Under the No Child Left Behind Act, each school is required to maintain student and school level performance data for performance assessment purposes. Informative and accurate data collection is central to measuring Adequate Yearly Progress, a central performance measurement of the Act. During FY 2005, the BIA will apply

grant funding and technical assistance from the Department of Education to develop a student-tracking database to meet the requirement of the No Child Left Behind Act.

As a complement to BIA's implementation of the No Child Left Behind Act, BIA is working with Tribes to advance a new learning philosophy under the umbrella of a pilot program to turn BIA schools into leadership academies. Leadership academies will offer a curriculum that helps students gain a positive attitude toward learning and develop skills required to become leaders in Indian communities. Leadership academies will be designed to motivate educators to instill in students a life-long desire for learning and to encourage enrollment in post-secondary schools. Two million dollars is being requested in FY 2006 for this new pilot program.

Indian School Construction

The President made a commitment to provide funding to replace, rebuild, and repair BIA schools in poor condition so Indian children would have safe and nurturing places to learn. With the additional funding provided through 2006, much progress has been made. In 2001, 35 percent of our BIA schools were in good or fair condition, while 65 percent were in poor condition. After FY 2005, we expect those numbers to be reversed, showing marked improvement in the condition of BIA schools and emphasizing this Administration's commitment to Indian children.

In March 2004, a new replacement school construction priority list was published in the *Federal Register*. The priority list identifies 14 schools in need of replacement due to significant health and safety concerns. With funds provided in the FY 2005 appropriations, the remaining five schools from the previous replacement school list will be completed as well as the first school on the new list – Dilcon Boarding School in Arizona. Three cost-share demonstration schools and five major facilities improvement and repair projects are also funded.

The FY 2006 budget request for school construction is $173.9 million. Of this, $35.0 million will be used to fund the second school on the priority list, Porcupine Day School in South Dakota, and phase I of the third school on the priority list, Crownpoint Community School in New Mexico. The Budget reflects a slowdown to allow the program to focus on building the schools already in the process of being constructed. Between 2001 and 2005, funding was appropriated for 34 replacement schools. Nine of these schools have been completed and are operating. Another eleven will be completed in 2005 and 2006. We have attached to this statement a chart demonstrating this Administration's overall commitment to BIA school construction.

The education facilities improvement and repair program request is $128.4 million. This request will fund four major facilities improvement and repair projects, annual maintenance needs, and minor repair projects to address health and safety concerns, code compliance, and program deficiencies at existing education facilities.

In response to the PART findings, BIA has improved efficiency and performance accountability in the school construction program by establishing the following long-term goals:

- By 2008, construct 100 percent of replacement schools in four years, from planning and design through construction with schools to be completed;
- Reduce the average cost per square foot for academic construction projects from $198 in 2004 to $161 in 2008, with appropriate adjustments for inflation; and
- Reduce excess space by 300,000 square feet annually.

Evaluating Tribal Priority Allocation Distribution

Tribal Priority Allocations (TPA) fund basic tribal services, such as social services, adult vocational training, child welfare, natural resources management, and contract support. TPA gives tribes the opportunity to advance Indian self-determination by helping them establish their own priorities and allowing tribes the flexibility to move federal funds among programs.

The current distribution of TPA funds is based on historical funding levels, which were established by formula in the early 1970's. In an effort to improve program accountability and to ensure that funding is targeted to the areas of greatest need, the Department will evaluate the allocation of funds within the TPA program and consult with Tribes to examine ways to better distribute TPA funding.

Economic Development

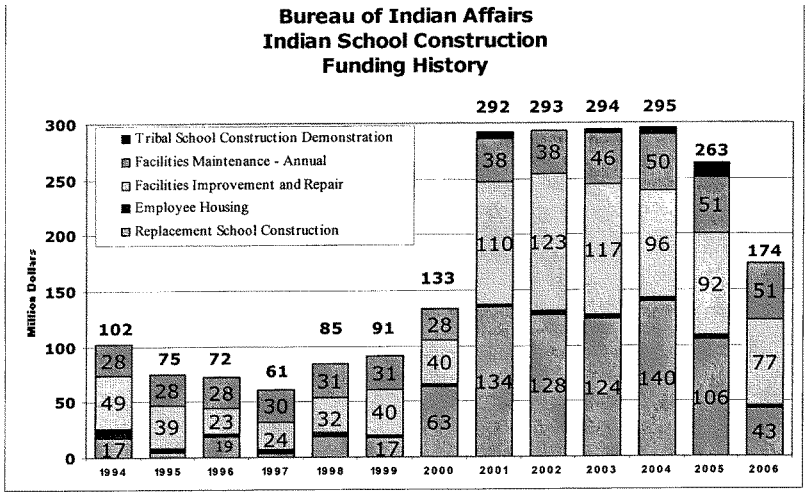
High unemployment on reservations is one of the greatest challenges facing Indian Country. The FY 2006 budget includes a request for $500,000 to establish an Economic Development Commission to investigate impediments to tribal business creation and develop an operational model for tribal businesses. This increase will help support Indian economic development and the BIA's performance goal to reduce unemployment on Indian reservations.

Resolving Land and Water Claims

The budget includes $24.8 million for payment of authorized Indian land and water claim settlements in Oklahoma, Nevada, Colorado, and New Mexico. These settlements resolve long-standing claims to water and lands by Indian tribes. They are the result of negotiations between the tribes, the Federal government, and other interested parties that have been ratified by the Congress. While the specific provisions of each settlement differ, most contain multi-year funding commitments.

Conclusion

Mr. Chairman, once again, we would like to thank you for the opportunity of appearing before you today. We are glad to be here and will be happy to answer any questions you may have.


Bureau of Indian Affairs
Indian School Construction
Funding History
Tribal School Construction Demonstration
Facilities Maintenance - Annual
Facilities Improvement and Repair
Employee Housing
Replacement School Construction
Million Dollars
300
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200
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United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

MAR 28 2005

The Honorable John McCain
Chairman, Committee on Indian Affairs
United States Senate
Washington, DC 20510-6450

Dear Mr. Chairman:

I am pleased to provide the responses prepared by the Office of the Special Trustee to the questions submitted by you following the February 16, 2005, Committee on Indian Affairs oversight hearing on the President's FY 2006 Budget Request for Indian Programs.

Should you have any questions, please contact (202) 208-5706.

Sincerely,

Jane Lyder

Jane M. Lyder
Legislative Counsel
Office of Congressional and
Legislative Affairs

Enclosure

cc: The Honorable Byron Dorgan
Vice Chairman, Committee on Indian Affairs

Questions from Senator John McCain
Indian Affairs Committee Budget Hearing
Wednesday, February 16, 2005

QUESTIONS FOR OFFICE OF THE SPECIAL TRUSTEE
Mr. Ross Swimmer

Historical Accounting. The proposed budget for the Office of the Special Trustee includes $135 million for historical accounting activities relating to tribal and individual Indian trust accounts – an increase of almost $78 million.

Question: How did the Administration decide on this particular figure -- $135 million? Would you give the Committee some idea of exactly what this expenditure would pay for – i.e., what specific activities or services?

Answer: The Administration's FY 2006 budget request for historical accounting is based on an estimate of the Department's costs to continue implementation of the Plan Interior filed with the District Court in January 2003. The Plan schedule estimated that the IIM accounting would take approximately $100 million each year after FY 2003. Congress appropriated 42.5% of the funds requested for FY 2004 and FY 2005 -- and the FY 2004 appropriation authorized funding for only certain IIM accounting activities. Further, a portion of the funding has gone toward Tribal trust accounting. With the funding provided by Congress, Interior has reconciled over 36,700 judgment IIM accounts to date. The next focus will be to address the land-based IIM accounts, which constitute the bulk of the accounting work.

The Department's budget request for historical accounting was constructed prior to the District Court's February 23, 2005, re-issuance of the structural injunction previously issued on September 23, 2003. The structural injunction directs the Department to conduct a far more expansive accounting and require that it be completed under even more constrained time lines. Preliminary estimates developed by the Department estimate the costs to comply with the order at approximately $12 billion, and possibly significantly more. The new order requires extensive work beyond what is currently budgeted in 2005 or proposed in 2006 to be completed by January 6, 2006. The Department's budget for 2005 or 2006 is not constructed to address these requirements.

Individual Accountings. Of this $135 million, about $95 million will be expended on individual Indian money accounts that are involved in the *Cobell* lawsuit, correct?

Question: What will Indian country get for this $95 million? Do you know how much more money, after this $95 million is spent, your office will have to expend to complete the accounting for individual Indian money accounts?

Answer: Yes, about $95 million is requested for the IIM historical accounting, and $40 million will go toward tribal accounting. Unlike other Indian-related programs within the

Department, the funding level requested to conduct a historical accounting was not derived from an assessed need in Indian country; therefore, it is difficult for the Department to measure what impact the expenditure will have in Indian country, or what value Indians might attach to it. The Secretary has been directed by the Court to conduct a historical accounting, and we take that directive very seriously. Therefore, we have requested funding consistent with implementation of the Historical Accounting Plan provided to the Court in January 2003.

The $95 million will provide funding for contracts with outside accounting firms who will examine existing records of IIM trust transactions and determine the accuracy of the IIM account balances, using both transaction-by-transaction accounting and statistical sampling techniques for verification.

How much more funding, and how much more time, the historical accounting will require depends largely on two factors:

1) the structural injunction which the District Court reissued on February 23, 2005;
2) the extent to which Congress *fully* funds historical accounting.

To understand the significance of the court order, it is useful to compare it to the Department's January 2003 plan, which, in large part, the court rejected:

	Interior's Plan	**Structural Injunction**
Estimated Cost	$335 million[1]	Approximately $12 billion[2]
Time to Complete	5 years	3 years for most accounting[3]
Verification Approach	Reconcile to supporting documents high value transactions and a statistical sample of lower value transactions.	Reconcile to supporting documents all IIM transactions. Verify approximately 61 million non-interest transactions.
Trust Asset (Land) Accounting	Describe trust assets owned by each IIM account holder as of December 31, 2000.	Describe all trust assets ever owned by current IIM account holders or their predecessors in interest from 1887 to the present.

[1] 2003 Estimate
[2] This estimate may possibly be significantly more. The current estimate, while still preliminary, has changed since testimony was given before the Committee on March 9, 2005.
[3] Even though the order gives until September 30, 2007 to complete the Special Deposit Accounts, it requires an accounting for individual Indians to be completed by September 30, 2006.

Closed IIM Accounts	No accounting for IIM accounts closed prior to October 31, 1994.	Full accounting for all IIM accounts since 1887.
Direct Pay (rents and royalties paid directly to Indians and never held in trust)	No accounting, since DOI never had receipts in trust.	Full accounting for all direct payments since 1887.
Time Frame	Accountings back to 1938 or inception of the IIM account, whichever is later.	Accountings back to 1887.

The court has ordered that the bulk of the accounting be completed in three years. This will have significant budget implications in both this fiscal year and ones to follow. If this order stands, it is likely that the historical accounting will escalate in cost by the billions compared to the cost of the January 6 Plan, which was in the millions.

Probate Adjudication. I understand that the budget reflects a transfer of $1.9 million out of BIA for probate adjudication activities in the Office of Hearings and Appeals (OHA).

Question: Will your office also contribute funding to these activities?

Answer: Yes, in addition to the $1.9 million increase requested in the OST FY 2006 budget, $8.8 million is included within the OST base funding for OST and OHA probate activities. This would provide a total of $10.7 million in 2006 for the costs associated with both OST and OHA responsibilities for addressing probate cases.

Indian Land Consolidation. The Special Trustee's budget also calls for about $34.5 million for Indian land consolidation. Last year the requested budget for this program was $75 million.

Question 1: Why do you propose to cut this program by some $40 million?

Answer: The FY 2006 budget request reflects the amount appropriated by the Congress in FY 2005 for this program.

Question 2: Will $34.5 million for acquiring fractional interests in Indian lands come anywhere close to keeping up with current rate of fractionation occurring on our Indian reservations?

Answer: The Department currently manages approximately 3.4 million interests. The number of interests has been increasing annually even though the amount of land is not increasing. The American Indian Probate Reform Act of 2004 (AIPRA), which will not be fully effective for at least another year, will provide the Department with new tools to help slow the rate of fractionation. Once AIPRA is fully implemented, Congress and the

Administration will be in a better position to determine the level of funding necessary to consolidate interests at an improved rate

Question 3: The Indian Probate Reform Act passed just last year authorized appropriations of $95 million for this program in FY2006 and $145 million for FY2007 through FY2010. Don't you think in the long run, Indian country, the Government and the American taxpayer would be better served if the Indian land consolidation program were funded at its authorized levels?

Answer: Once AIPRA is fully implemented, Congress and the Administration will be in a better position to determine the level of funding necessary to consolidate interests at an improved rate. The Department will continue to work with Congress to address any changes we may need in the future.

United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

MAR 15 2005

Honorable John McCain
Chairman, Committee on Indian Affairs
United States Senate
Washington, DC 20510-6450

Dear Mr. Chairman:

Enclosed are responses prepared by the Office of the Special Trustee for American Indians to questions submitted following the February 16, 2005, hearing on the President's FY-2006 budget request for Indian Programs.

Thank you for the opportunity to provide this material to the Committee.

Sincerely,

Jane Lyder

Jane M. Lyder
Legislative Counsel
Office of Congressional
and Legislative Affairs

Enclosure

cc: Honorable Byron Dorgan
Vice Chairman, Committee on Indian Affairs

Honorable Tom A. Coburn
United States Senate

Senate Indian Affairs Committee
FY 2006 Indian Programs Budget Hearing
February 16, 2005

Senator Coburn

Question:
The Administration is requesting an additional $77.8 million for the Office of Historical Trust Accounting – roughly doubling the budget for that division. Please provide this committee additional justification for this increase, including performance measures, historic projections for OST's Five Year Plan, and any other relevant information. Please be as specific as possible.

Answer:
The Department's budget request for historical accounting was constructed prior to the District Court's February 23, 2005, re-issuance of the structural injunction previously issued on September 23, 2003. The structural injunction directs the Department to conduct a far more expansive accounting and require that it be completed under even more constrained time lines. Using very preliminary estimates, we believe carrying out these requirements could cost billions. The new order requires extensive work beyond what is currently budgeted in 2005 or proposed in 2006 to be completed by January 6, 2006. The Department's budget for 2005 or 2006 is not constructed to address these requirements.

The figure contained in the Administration's FY 06 budget was based on Interior's Plan for the historical accounting of IIM accounts as filed with the District Court in January 2003. The Plan schedule estimated that the IIM accounting would take about five years to reconcile over 490,000 transactions based on receiving appropriations of approximately $100 million each year after FY 2003. Congress has appropriated 42.5 percent of the funds requested for FY 2004 and FY 2005, and the FY 2004 appropriation authorized funding for only certain IIM accounting activities. Further, a portion of the funding has gone toward Tribal trust accounting. With the funding provided by Congress, Interior has reconciled over 36,700 judgment IIM accounts, 7,360 per capita IIM accounts, and distributed over $38 million in residual balances in special deposit accounts; however, little work has been done to address the land-based IIM accounts, the bulk of the accounting work.

DEPARTMENT OF EDUCATION

Statement by Victoria Vasques
Assistant Deputy Secretary and Director, Office of Indian Education

before the

Senate Committee on Indian Affairs
on the Fiscal Year 2006 Budget for
Department of Education Programs Serving
American Indians and Alaska Natives

February 16, 2005

Mr. Chairman and Members of the Committee, on behalf of Secretary Spellings, thank you for this opportunity to appear before you to discuss our fiscal year 2006 budget request for Department of Education programs that address and serve the needs of American Indians and Alaska Natives.

My name is Victoria Vasques, and I am the Assistant Deputy Secretary and Director of the Office of Indian Education. I am here with my colleagues, Tom Corwin, the Director of the Division of Elementary, Secondary, and Vocational Analysis, Budget Service, and Cathie Martin, the Deputy Director of the Office of Indian Education. At the Department, I oversee the programs that support the efforts of local educational agencies, Indian tribes, and organizations that assist American Indian and Alaska Native students in achieving to the same high standards as all students. I am proud to say my personal commitment to education began with my father, who served as tribal chairman for my tribe, the San Pasqual Band of Mission Indians. He instilled in me the importance of education.

In April of last year, President Bush signed Executive Order 13336 (E.O.), to assist American Indian and Alaska Native students in meeting the challenging student academic achievement standards of the No Child Left Behind Act in a manner that is consistent with our tribal traditions, languages, and cultures. The Department's work on implementing the Executive Order will be highlighted at a National

Conference on April 6th and 7th at Santa Ana Pueblo in New Mexico. The National Conference, required by the Executive Order, will focus on issues affecting implementation of NCLB within Indian Country.

Overview

Three years ago, President George W. Bush launched the most important reform of public education in a generation by signing into law the No Child Left Behind Act of 2001 (NCLB Act), which reauthorized the Elementary and Secondary Education Act of 1965 (ESEA). The new law was based on stronger accountability, more choices for parents and students, greater flexibility for States and school districts, and the use of research-based instructional methods. The overall goal is to ensure that by the 2013-2014 school year, every student, including American Indians and Alaska Natives, will be proficient in reading and mathematics.

States, school districts, and schools are working hard to implement NCLB, and the early returns are promising. A study from the Education Trust showed that in States with three years of comparable data, 23 of the 24 States increased student achievement in mathematics, while 15 of the 23 States increased student achievement in reading. Things are also moving in the right direction for Native American students. The gap between Native American and White students in reading achievement grew smaller in 13 States and remained the same in two. In mathematics, that gap narrowed in 14 States, widened in two, and remained the same in two.

The President's fiscal year 2006 budget builds on the NCLB Act by extending its principles and reforms to the high school level. In too many schools across the Nation, the longer students stay in school, the more they fall behind, with far too many students dropping out. The 2006 budget request includes almost $1.5 billion for a new High

School Initiative, which will help to ensure that every student, including American Indian students, not only graduates from high school, but graduates prepared to enter college or the workforce with the skills he or she needs to succeed. This is especially important for American Indian students who continue to be disproportionately affected by poverty, low educational attainment, and fewer educational opportunities than other students.

The 2006 budget request for the Department of Education supports the President's commitment to provide resources to help improve educational opportunities for all students. American Indian students will continue to benefit from implementation of the NCLB Act, as well as new initiatives to improve the quality of secondary education. Overall, our estimates show that Department programs would, under the FY 2006 budget, provide approximately $1 billion in direct support specifically for Indians and Alaska Natives. In addition, significant funds are provided to Indian students who receive services through broader Federal programs, such as ESEA Title I Grants to Local Educational Agencies and IDEA State Grants. The Department recognizes the implementation challenges facing some Native American and rural communities and is committed to working with local, State, and tribal governments to resolve these issues, and has provided flexibility to rural districts in implementing provisions of the law.

Indian Education Programs

The President's request for the Department's Indian Education programs for fiscal year 2006 is $119.9 million. These programs include formula grants to school districts, competitive programs, and national activities for research and evaluation on the educational needs and status of the Indian population.

Indian Education - Grants to Local Educational Agencies

We are requesting $96.3 million for Indian Education formula grants to local educational agencies (LEAs). This program is the Department's principle vehicle for addressing the unique educational and culturally related needs of Indian children. These grants supplement the regular school program, helping Indian children improve their academic skills, raise their self-confidence, and participate in enrichment programs and activities that would otherwise be unavailable. The requested level would provide an estimated per-pupil payment of $204 for approximately 472,700 students, including students in Bureau of Indian Affairs (BIA) schools.

Special Programs for Indian Children

Our request for Special Programs for Indian Children is $19.6 million. These funds would be used for three activities.

Approximately $9.2 million would support an estimated 36 demonstration grants that focus on two objectives. First, school readiness- programs provide age-appropriate educational programs and enhance the language skills of American Indian and Alaska Native 3- and 4-year old children to prepare them for successful entry into school at the kindergarten level. Second, college- preparatory programs for American Indian and Alaska Native secondary students are designed to increase competency and skills in academic subjects, including mathematics and science, to enable these students to successfully go on to postsecondary education.

In addition, the 2006 request would provide over $10 million to continue two training efforts under our Professional Development program, the American Indian Teacher Corps and the American Indian Administrator Corps initiatives. Approximately

$8.2 million of these funds would be used to support the American Indian Teacher Corps, which trains Indian individuals, at the bachelor's- degree level at a minimum, and who will meet full State certification or licensure requirements. The 2006 request would also provide approximately $2 million for the Administrator Corps to train Indian individuals at the master's- degree level to become new school administrators with full State certification. Both programs are designed to provide on-going professional development and in-service support to these new Indian teachers and administrators in their first year of work in schools with concentrations of Indian students.

National Activities

We are requesting $4 million for research, evaluation, data collection, and technical assistance related to Indian education.

Fiscal year 2006 funds would be used to continue the fourth year of a national study on Native American education. This study collects data through the National Assessment of Educational Progress on American Indian and Alaska Native 4th and 8th grade student performance in mathematics and reading. Fiscal year 2006 funds would also be used to continue research grants and data collections initiated in earlier years, and to promote ongoing program improvement for Indian Education Grants to LEAs and Special Programs.

High School Intervention

The Administration is proposing a new High School Intervention initiative to support the development, implementation, and evaluation of targeted interventions that: (1) increase the achievement of high school students, particularly students at risk of failing to meet challenging State academic content standards; (2) eliminate gaps in achievement among students from different ethnic and racial groups and between disadvantaged students and their more advantaged peers; and (3) enable all high school

students to graduate with the education, skills, and knowledge necessary to succeed in postsecondary education and in a demanding, high- technology economy. In 2006, the Administration is requesting $1.24 billion for this initiative. Of this amount, $683 million would be used for continuation grants for programs expiring under the Higher Education Act and $552 million would be available for State formula grants and national activities. Under the proposal, the BIA would receive 0.5 percent of the formula grant allocation, approximately $2.7 million in FY 2006.

High School Assessments

The FY 2006 budget request includes $250 million to help States develop and implement annual high school assessments in reading/language arts, and mathematics. These assessments will provide high school educators with better information on the progress of their students and provide a tool for holding high schools accountable for the education of all their students. Our initial estimate is that the BIA would receive a set-aside of approximately $1.3 million.

Teacher Incentive Fund

The Teacher Incentive Fund program is a new initiative that would provide formula grants to State educational agencies to reward effective teachers, and to offer incentives for highly qualified teachers to teach in high-need schools. This initiative is intended to help reform teacher-compensation practices, reward successful teaching, and enlarge the presence of an effective teacher in every classroom. For 2006, the Administration is requesting $450 million for the formula grants program, $2.2 million of which would go to the BIA.

Title I: Education for the Disadvantaged

Title I Grants to LEAs

Title I provides supplemental education funding to LEAs and schools, particularly those in high-poverty areas, to help the more than 15 million educationally disadvantaged students, including an estimated 285,000 Indian children, learn to the same high standards as other students. Title I funds may be used, for example, to provide eligible students with supplemental instructional programs at all grade levels, extended-day kindergarten programs, learning laboratories in math and science, and intensive summer programs.

The Department is requesting $13.3 billion for Title I Grants to LEAs in fiscal year 2006, a 4.7 percent increase over the 2005 level and a 52 percent increase since the passage of the NCLB Act. Under the statute, the BIA and the Outlying Areas receive 1 percent of these funds. The BIA share of the set-aside would be approximately $95.8 million, an increase of $4.5 million. These funds would serve almost 48,000 children in BIA schools, in addition to Indian children served in regular public schools.

Reading First Grants

Reading First is a comprehensive effort to implement the findings of high-quality scientifically based research on reading and reading instruction. Helping all children read well by the end of the 3rd grade is one of the Administration's highest priorities for education. Providing consistent support for reading success from the earliest age has critically important benefits. Under this formula program, the BIA receives 0.5 percent of the State Grants appropriation. Our 2006 budget request of $1 billion would provide approximately $5.2 million to BIA schools.

Improving Teacher Quality State Grants

The President's budget request emphasizes the importance of good teaching for all students. The Improving Teacher Quality State Grants program provides flexible funds to States and LEAs to develop and support a high-quality teaching force through activities that are grounded in scientifically- based research. Funds are used to strengthen the skills and knowledge of teachers and administrators to enable them to improve student achievement in the core academic subjects and for teacher and principal recruitment, development, and retention. States and the BIA also use the funds to achieve the NCLB objective of ensuring that all teachers of the core academic subjects are highly qualified. Under the statute, the BIA receives a set-aside of 0.5 percent.

The Department's fiscal year 2006 request of $2.9 billion would provide the BIA with an allocation of $14.5 million.

Impact Aid

Basic Support Payments

Impact Aid provides financial assistance to school districts affected by Federal activities. The Basic Support Payments program is the primary vehicle for providing Federal assistance to many LEAs that educate Indian children. The 2006 budget request of $1.1 billion would provide approximately $507.3 million to support the education of almost 125,000 children living on Indian lands.

Payments for Children with Disabilities

Impact Aid Payments for Children with Disabilities help Federally affected school districts to provide the special education services required by the Individuals with

Disabilities Education Act for federally connected children, including children residing on Indian lands. The budget request of approximately $50 million would provide $21.2 million for services to almost 20,000 children with disabilities living on Indian lands.

Construction

The Impact Aid Construction program provides formula and competitive funds to support school construction and renovation in school districts that educate Federally connected students or have federally owned land. Under the budget request, approximately $9.1 million in formula grants would go to districts on behalf of students residing on Indian lands. Funds may be used for such purposes as construction and renovation of school facilities, and debt service related to the construction of school facilities. In addition, districts with high concentrations of students living on Indian lands would be eligible for $27.3 million in competitive construction grants. In FY 2003, $25.3 million out of $26.8 million went to Indian districts.

English Language Acquisition

English Language Acquisition programs support the education of limited English proficient students through a State- formula -grant program that helps to ensure that these students learn English and meet the same high academic standards as other students. The NCLB Act established a set-aside of the greater of 0.5 percent or $5 million for schools operated predominantly for American Indian, Alaska Native, and Native Hawaiian children. The 2006 budget request would include $5 million for these schools. In addition, the English Language Acquisition State- formula- grant funds would also serve limited English proficient American Indian, Alaskan Native, and Native Hawaiian students enrolled in public schools.

21st Century Community Learning Centers

The 21st Century Community Learning Centers program enables communities to establish or expand centers that provide activities offering extended learning opportunities (such as before- and after-school programs) for students, and related services to their families. The NCLB Act converted this activity from a national competition to a State formula- grant program, with State educational agencies making competitive subgrants within their States. Under this program, the Department may reserve up to 1 percent of the appropriation for grants to the Bureau of Indian Affairs and the Outlying Areas. The fiscal year 2006 request of $991 million would provide approximately $7.4 million to the BIA.

Grants for State Assessments

The Grants for State Assessments program helps States develop and implement the additional assessments required by the NCLB Act. Under the funding formula, 0.5 percent of the appropriation for formula grants is reserved for the BIA. For 2006, the Administration is requesting $411.7 million for the formula grants portion of this program, $2 million of which would go to the BIA.

Alaska Native Education Equity

We are requesting $31.2 million for Alaska Native Education Equity. These funds support an array of education services to improve the educational status of Alaska Natives, including student enrichment, preschool programs, teacher training, and curriculum development.

Education for Homeless Children and Youth

Under the McKinney-Vento Homeless Assistance Act, the Secretary is required to transfer 1 percent of the appropriation for Education for Homeless Children and Youth to the BIA for services to Indian students in BIA-operated and funded schools. Our 2006 budget request of $62.5 million includes almost $625,000 for the BIA to provide services to homeless children and youth to enable them to attend and excel in school.

Tribally Controlled Postsecondary Vocational and Technical Institutions

This program, currently authorized by the Carl D. Perkins Vocational and Technical Education Act and proposed for reauthorization under the Higher Education Act of 1965, provides competitive grants for the operation and improvement of tribally controlled postsecondary vocational and technical institutions. Funds provide continued and expanded educational opportunities and training for Indian students attending those institutions, along with institutional support of vocational and technical education programs. Under the budget request, the Department would provide $7.4 million for these grants.

Higher Education Aid for Institutional Development

The Aid for Institutional Development programs under Title III of the Higher Education Act of 1965, are designed to strengthen institutions of higher education that enroll large proportions of minority students and students from low-income households. The programs provide financial assistance to help institutions solve problems that threaten their ability to survive, improve their management and fiscal operations, build endowments, and make effective use of technology.

The Strengthening Tribally Controlled Colleges and Universities (TCCUs) program authorizes 1-year planning and 5-year development grants that enable these institutions to improve and expand their capacity to serve American Indian students.

Under the budget request, the Department would award $23.8 million for activities to strengthen TCCUs. Since fiscal year 2001, a portion of funds has supported construction and renovation activities, and the fiscal year 2006 budget request would provide approximately $13.8 million for these purposes.

The Strengthening Alaska Native and Native Hawaiian-Serving Institutions program authorizes 1-year planning and 5-year development grants that enable these institutions to improve and expand their capacity to serve Alaska Native and Native Hawaiian students. The Department's 2006 budget request includes $1 million for this program.

Special Education

Grants to States

The Special Education Grants to States program provides formula grants to meet the excess costs of providing special education and related services to children with disabilities. Of the funds allocated to the Department of the Interior, 80 percent is used for the education of children 5-21 years old and 20 percent is distributed to tribes and tribal organizations for the education of children 3-5 years old.

Under the budget request of $11.07 billion, the Department would provide approximately $85.3 million to the BIA, more than a $1.7 million increase, to help serve approximately 8,600 Indian students.

Grants for Infants and Families

The Grants for Infants and Families program provides formula grants to assist States in implementing statewide systems of coordinated, comprehensive, multidisciplinary, interagency programs to make available early intervention services to

all children with disabilities, aged birth through 2, and their families. An amount equivalent to 1.25 percent is allocated to the BIA. Under the 2006 budget request of $440.8 million, the BIA would receive approximately $5.4 million.

Vocational Rehabilitation

The Vocational Rehabilitation (VR) State Grants program provides services for individuals with disabilities, consistent with their abilities, capabilities, interests, and informed choice, so that these individuals may prepare for, and engage in, gainful employment. Nationally, this program provides services to about 9,000 American Indians with disabilities each year. In addition, the Rehabilitation Act requires that between 1.0 percent and 1.5 percent of the funds appropriated for the VR State Grants program be set aside for competitive grants to Indian tribes to provide vocational rehabilitation services to American Indians with disabilities living on or near reservations. For 2006, the Department requests approximately $2.7 billion for the VR State Grants program. The amount set aside for grants to Indian tribes would be approximately $33 million and would serve over 5,600 American Indians with disabilities.

The 2006 request also continues the practice of the Bush Administration of proposing to eliminate or consolidate funding for programs, including some that have set-asides for Native Americans, that have achieved their original purpose, that duplicate other programs, that may be carried out with flexible State formula grant funds, that are ineffective, or that involve activities that are better or more appropriately supported through State, local, or private resources.

Conclusion

The 2006 budget request for the Department of Education programs serving American Indians and Alaska Natives supports the President's overall goal of ensuring educational opportunities for all students.

Thank you for the opportunity to appear before the Committee. My colleagues and I will be happy to respond to any questions you may have.

DEPARTMENT OF EDUCATION

Office of the Deputy Secretary

Biographical Sketch

NAME	Victoria L. Vasques
POSITION	Assistant Deputy Secretary and Director, Office of Indian Education, U.S. Department of Education
EXPERIENCE	
2002 - 2005	Assistant Deputy Secretary and Director, Office of Indian Education, U.S. Department of Education
2001 – 2002	Executive Director, White House Initiative on Tribal Colleges and Universities, U.S. Department of Education
1993 – 2001	Director of Indian Affairs, Office of Congressional and Intergovernmental Affairs, U.S. Department of Energy
1989 – 1993	Director of Scheduling & Logistics, U.S. Department of Energy
1988 – 1989	Executive Assistant & Director of Boards & Commissions, The American Bicentennial Inaugural
OTHER WORK EXPERIENCE	
1976 – 1988	Coordinator of Logistics & Scheduling, Commission on Executive, Legislative & Judicial Salaries
	Coordinator of Logistics & Scheduling, Presidential Commission on the HIV Epidemic
	Project Officer, White House Conference for a Drug Free America
	Special Assistant, Office of Intergovernmental & Interagency Affairs, U.S. Department of Education
	Deputy Director, White House Conference on Small Business

Executive Assistant, Presidential Commission on Indian Reservation Economies

Special Assistant, Office for Civil Rights, U.S. Department of Education

Consultant, National Congress of American Indians

Counselor & Classroom Teacher, Capistrano Unified School District, California

Education Program Specialist, Office of Indian Education, U.S. Department of Education

Indian Education Project Director, Whittier Union High School District, California

PUBLICATIONS

Department of Energy, American Indian & Alaska Native Tribal Government Policy Booklet (co-wrote)
Department of Energy Working With Tribal Nations Booklet (contributed)

OUTSIDE ACTIVITIES

National Speaker at Elementary & Secondary Schools, *The American Indian Today*
Member of the Decade Society (charitable organization, Washington, DC)
Member of the St. Mary's Home School Association (fundraising organization, Alexandria, VA)

HONORS AND AWARDS

American Indian Woman of the Year, 1985
Department of Energy Special Act Cash Award, 1992

EDUCATION

California State University, Fullerton, Human Services, BS 1976
University of California, Irvine, Multiple and Single Subject Teaching Credentials 1981

DEPARTMENT OF EDUCATION

Office of the Deputy Secretary

Biographical Sketch

NAME	:	Cathie L. Martin
POSITION	:	Deputy Director, Office of Indian Education Office of the Deputy Secretary, U.S. Department of Education
EDUCATION	:	BS, Elementary Education, Northeastern State University (Tahlequah, Oklahoma), 1973 M.Ed., Northeastern State University (Tahlequah, Oklahoma), 1975
EXPERIENCE		
2004 – Present	:	Deputy Director, Office of Indian Education, U.S. Department of Education
2002 – 2004	:	Group Leader, Office of Indian Education, U.S. Department of Education
2001 – 2002	:	Acting Director, Office of Indian Elementary, Office of Elementary and Secondary Education, U.S. Department of Education
1999 – 2001	:	Assistant to the Director, Office of Indian Education, U.S. Department of Education
1989 – 1999	:	Supervisory Education Specialist, Office of Indian Education, U.S. Department of Education
1984 – 1989	:	Supervisory Management Analyst, Office of Management, Bureau of Indian Affairs, Washington, DC
1978 – 1984	:	Education Program Specialist, Office of Indian Education Programs, Bureau of Indian Affairs, Washington, DC
1975 – 1978	:	Learning Disabilities Teacher (Supervisory), Bureau of Indian Affairs, Wyandotte, Oklahoma
1974 – 1975	:	Speech Therapist, Miami, Oklahoma
1973 – 1974	:	Speech Therapist, Seneca, Missouri
CERTIFICATIONS	:	Speech Therapy, Missouri (Lifetime) Learning Disabilities, Oklahoma

DEPARTMENT OF EDUCATION

Office of the Under Secretary/Budget Service

Biographical Sketch

NAME	:	Thomas M. Corwin
POSITION 1987 - Present	:	Director, Division of Elementary Secondary and Vocational Analysis
EXPERIENCE		
2002 – 2004	:	Associate Deputy Under Secretary, Office of Innovation and Improvement (on temporary detail from Budget Service)
1999 – 2002	:	Acting Deputy Assistant Secretary, Office of Elementary and Secondary Education (on temporary detail from Budget Service)
1984 -- 1987	:	Senior Budget Analyst, Division of Elementary, Secondary, and Vocational Analysis, Budget Service, Office of Planning, Budget, and Evaluation
1980 – 1984	:	Program Analyst, Office of Planning, Budget and Evaluation, U.S. Department of Education
1978 – 1980	:	Staff Associate, American Council on Education
1977 – 1978	:	Policy Analyst, American Council on Education
PUBLICATIONS	:	Author or co-author of eleven published monographs and articles.
OUTSIDE ACTIVITY 1987 – 2004	:	Consulting Editor, The Clearing House (journal for middle-level and high school teachers and administrators)
HONORS AND AWARDS:	:	Presidential Distinguished Executive Award, 2002 Presidential Meritorious Executive Award, 1991 and 1997
EDUCATION	:	B.A., Political Science, New College (Sarasota, Florida), 1974 M.P.P., Kennedy School of Government, Harvard University, 1976

US Department of Education
Response to questions from Senator John McCain
Indian Affairs Committee Budget Hearing

1. **Department of Education Cuts.** The President's budget proposes an overall reduction to the Department of Education of about 2.9 percent from the FY 2005 enacted levels.

Question: Would you discuss how Tribal and BIA schools will be affected by this proposed reduction in light of the requirements in the No Child Left Behind Act.

Answer: Under the 2006 budget, funding that goes directly to support Tribal and BIA schools would decrease by about $5.6 million (4 percent) for existing NCLB programs. However, in the five years since 2001, direct funding for Tribal and BIA schools has grown by almost 86 percent. Providing large increases for NCLB during the first few years made sense because that was when schools faced the greatest challenges in implementing the new law. Now, with the law well underway, the budget recognizes that in this time of fiscal constraint, we need to focus increasingly on how to spend better rather than how to spend more.

At the same time, however, the President recognizes that there is still a major need to expand the promise of NCLB to high schools, since much of the progress has been at the elementary school level, where NCLB programs target most of their resources. That is why the President's 2006 budget focuses on strengthening the law's impact in our high schools through the President's $1.5 billion High School Initiative. This initiative includes $1.24 billion for High School Intervention and $250 million for High School Assessments. Together, these two components would provide Tribal and BIA schools with an estimated $4 million to help improve high schools.

2. **Consultation Under NCLB.** I understand that under the No Child Left Behind Act if an Indian owned school fails to meet the improvement criteria, the school could be closed.

Question: How would the Executive Orders on Consultation and Education interact under these circumstances with the No Child Left Behind Act?

Answer: Under Section 1116 of the Elementary and Secondary Education Act, as reauthorized by the No Child Left Behind Act, a school that repeatedly fails to make adequate yearly progress must go into "restructuring." When a school is in restructuring status, the appropriate authorities must make fundamental changes in the operation of that school, such as by reopening the school as a charter school, replacing all or most of the school staff, or entering into a contract with a private company to operate the school. For contract and grant schools, which are funded but not operated by the Bureau of Indian Affairs (BIA), the school's governing board has responsibility for restructuring. BIA has restructuring responsibility for BIA-operated schools.

In carrying out any restructuring activities, the Bureau would be subject to any tribal consultation requirements that may apply under Executive Orders or Department of the Interior statutes.

3. **Shifting of Voc-Tech Funding.** The Postsecondary Vocational and Technical Institutions and Strengthening Tribally controlled Colleges and Universities programs have been moved to Higher Education, where both receive level funding $7.4 and $23.8 million.

Question: Would you discuss the reason for moving these programs to Higher Education, in terms of efficiency and savings.

Answer: The President's 2006 budget proposes moving the Tribally Controlled Postsecondary Vocational and Technical Institutions program to Higher Education partly in response to the Program Assessment Rating Tool findings that recommended the Department explore whether efficiencies can be gained by authorizing programs serving similar objectives together. This approach would allow the Department to pursue a coordinated, comprehensive strategy for supporting reform and innovation at postsecondary institutions, strengthening postsecondary academic programs, and improving student achievement, retention, and graduation rates at the postsecondary level. Additionally, the proposed change would allow the Department to develop coordinated strategies for setting appropriate performance targets and collecting reliable data across programs that support postsecondary institutions and students.

The Strengthening Tribally Controlled Colleges and Universities program is already authorized under the Higher Education Act and has been funded under the Higher Education budget account. The Administration is not proposing any changes.

STATEMENT OF MICHAEL LIU
Assistant Secretary
Public and Indian Housing
U.S. Department of Housing and Urban Development

BEFORE THE
UNITED STATES SENATE
COMMITTEE ON INDIAN AFFAIRS

February 16, 2005

INTRODUCTION

Mr. Chairman, Mr. Vice Chairman, and Members of the Committee, thank you for inviting me to provide comments on President Bush's fiscal year (FY) 2006 budget for HUD's Indian Housing and Community Development programs.

My name is Michael Liu, and I am the Assistant Secretary for Public and Indian Housing. I am responsible for the management, operation and oversight of HUD's Native American programs. These programs are available to over 562 federally-recognized Indian tribes. We serve these tribes directly, or through their tribally designated housing entities (TDHE), by providing grants and loan guarantees designed to support affordable housing, and community development activities.

It is a pleasure to again appear before you, and I would like to express my appreciation for your continuing efforts to improve the housing conditions of American Indian, Alaska Native and Native Hawaiian peoples. Tribes are taking advantage of new opportunities to improve the housing conditions of the Native American families residing on Indian reservations, on trust or restricted Indian lands, in Alaska Native Villages and Native Hawaiians on the Native Hawaiian Homelands. For example, during FY 2004, tribes and their TDHEs used their IHBG grants to build 2,115 new housing units. Each new housing unit gave shelter to a family. If all of this building were used to relieve over-crowding, then it would have reduced the incidence of overcrowding in Indian Country by 4.5 percent. The Department is working on a measure to precisely track reduction in over-crowding and we are committed to working

with Indian Housing Block Grant (IHBG) grantees to establish a set of measures that illustrate the program's outcomes. While there is still a long way to go, we expect to see overcrowding reduced by at least one percent in the coming year, which means that 467 additional families will be housed.

This momentum needs to be sustained as we continue to work together toward creating a better living environment in Native American communities.

OVERVIEW

At the outset, let me reaffirm the Department of Housing and Urban Development's support for the principle of government-to-government relations with federally-recognized Indian tribes. HUD is committed to honoring this fundamental precept in our work with American Indians and Alaska Natives.

For several years now I have updated you on the progress tribes and tribally designated housing entities (TDHEs) have made toward the obligation and expenditure of funding. For FY 2005, ONAP has enhanced its performance measures and continues its expansion of the ACCESS database system to ensure we are able to accurately report on the rate of fund obligations and expenditures. The Department is consulting with tribally elected leaders and TDHEs for their input so that we may improve and streamline data collection through the required Indian Housing Plan (IHP), the Annual Performance Report (APR) and the Annual Status and Evaluation Report (ASER) for the ICDBG Program.

I am now more confident than ever that the majority of tribes and their TDHEs are obligating and spending their grants in an expeditious manner. The Department's electronic Line of Credit Control System shows that more than 82 percent of all grant funds appropriated between 1998 and 2004 have been expended by grantees.

BUDGET SYNOPSIS

Let me now turn to the President's budget request for FY 2006. This is a tight budget. But having said that, this budget also recognizes the low-income housing needs in Native American communities. This budget also increases the budget authority for Section 184 Indian Housing Loan Guarantee program. Thus, the Department's homeownership efforts on behalf of Native American communities will continue at an accelerated pace. HUD will also increase its efforts in promoting leveraging of federal dollars with private investments for both rental housing and homeownership. We believe accessing greater sources of private capital will increase housing opportunities on Indian reservations, on trust or restricted Indian lands, in Alaska Native Villages and on the Native Hawaiian Homelands.

For FY 2006, the President's budget proposes a total of $594.9 million dollars specifically for HUD programs that serve Native Americans, including American Indians, Alaska Natives, and Native Hawaiians.

Of this total, $582.6 million is authorized under the Native American Housing Assistance and Self-Determination Acts (NAHASDA). Of the NAHASDA funds, approximately $517.7 million is for direct, formula allocations through the Indian Housing Block Grant Program. $4.8 million is proposed for NAHASDA's Title VI Tribal Housing Activities Loan Guarantee Fund for credit subsidy and administrative expenses. This will leverage $37.9 million in loan guarantee authority. The NAHASDA allocation also includes $57.8 million for the Native American Housing and Community Development Block Grant Program. Finally, there is $2.458 million available under NAHASDA for training and technical assistance to support these programs.

The President's budget request provides $2.65 million for the Section 184 Indian Housing Loan Guarantee Fund for credit subsidy and administrative expenses. This will provide $99 million in loan guarantee authority.

The Native Hawaiian community will receive, through the Department of Hawaiian Home Lands, $8.8 million for the Native Hawaiian Housing Block Grant Program, and $882,000 for the Section 184A Native Hawaiian Home Loan Guarantee Fund, which will leverage approximately $35.0 million in new loan guarantees.

HUD TRAINING AND TECHNICAL ASSISTANCE

The Training and Technical Assistance set-aside of $2.661 million has provided the initial training and technical assistance to most grantees, enabling them to function

effectively under NAHASDA. For FY 2006, the President's request includes an additional $353,000 to provide similar services for the management and oversight of the Native Hawaiian Housing Block Grant program.

NATIONAL AMERICAN INDIAN HOUSING COUNCIL (NAIHC) TRAINING AND TECHNICAL ASSISTANCE

Difficult decisions had to be made for this budget. Therefore, no funds were requested under the IHBG training and technical assistance set-aside for NAIHC as the Department believes they have sufficient funding. NAIHC's current balance from the Indian Housing Block Grant set-aside is $5.35 million. In addition, NAIHC has a $4.56 million balance in prior budget set-asides from the Department's Office of Community Planning and Development. We have worked closely with NAIHC representatives over the past year to put these resources to work in a more expeditious manner.

TITLE VI TRIBAL HOUSING ACTIVITIES LOAN GUARANTEE FUND

The Title VI Tribal Housing Activities Loan Guarantee Fund (Title VI) is also a set-aside under the IHBG Program. The President's Budget requests $4.65 million in credit subsidy to continue loan activities at previous levels. The 2006 request will support $37.9 million in loan guarantee authority, which will be sufficient to cover future program needs. This program has been underutilized in past years. For 2006 our goal is to use 100 percent of the loan guarantee authority that is projected to be available.

SECTION 184 INDIAN HOUSING LOAN GUARANTEE FUND

The President's budget request for this program is $2.645 million, which will leverage nearly $99 million in loan guarantee authority. For FY 2006, the projected loan guarantee authority, including carryover will support over $255 million in Section 184 loan activity, which will be sufficient to cover anticipated loan demand.

In Fiscal Year 2004 we increased the number of mortgage loan guarantees to 622, up from 271 loan guarantees in FY 2003, the most since the program's inception. We now have completed more than 2,125 Section 184 Loan Guarantees that represent over $212 million dollars in homeownership investments. HUD's FY 2006 goal is to issue $120 million in loan guarantees for this program.

The Department believes the Section 184 program will continue to play a vital role in keeping with the President's commitment to create 5.5 million minority homeowners by the end of this decade. To assist in this process during the past year, HUD reached out to the Bureau of Indian Affairs and the Department of Agriculture's Rural Development Office to formulate a Memorandum of Agreement to develop an expedited process for land title searches. This agreement will establish interagency coordination that will help create more homeownership opportunities in Indian County.

NATIVE HAWAIIAN HOUSING BLOCK GRANT PROGRAM

For FY 2006, the Department is requesting $8.8 million. There is a $353 thousand dollar set aside for training and technical assistance. The Department of Hawaiian Home Lands (DHHL) has been an active partner; there are numerous affordable housing activities in process at more than 14 sites.

SECTION 184A NATIVE HAWAIIAN HOUSING LOAN GUARANTEE FUND

The budget request includes $882 thousand for the Section 184A Native Hawaiian Housing Loan Guarantee Fund. The request will provide up to $35 million in loan guarantee authority to secure market-rate mortgage loans and activities related to such projects to eligible entities, including the DHHL, non-profit organizations and income-eligible Native Hawaiian families who choose to reside on the Hawaiian Home Lands. This program is now in its fourth year of operation.

At present, including carryover funds, there is over $157 million in credit authority available under the 184A program. DHHL, a State agency, is our primary program partner. Among their other activities, they are responsible for allocation of leasehold interests on the Hawaiian Home Lands. Until direct-endorsement lenders are approved, the Office of Native American Programs (ONAP) National Programs Office will work closely with DHHL, other qualified program partners and individual borrowers to review, underwrite and issue guarantee certificates for all loans.

I am pleased to announce that DHHL has entered into an agreement with a housing development firm to construct 20 turnkey homes in Waiohuli on the island of Maui using the Section 184A Loan Guarantee Program. The Department of Hawaiian Home Lands will access the Section 184A loan guarantee program as an "institutional borrower" for the permanent financing on this project. DHHL would use the proceeds from the 184A loan to enter into homebuyer agreements with families who would otherwise find it difficult to obtain mortgage financing. The project has drawn interest from a number of national lenders experienced in HUD loan guarantee programs. And there is real interest among secondary mortgage market investors to purchase loans generated through the program.

NATIVE HAWAIIAN PROGRAMS SPECIALIST

I want to report to you on our efforts to fill the Native Hawaiian programs specialist position in Honolulu. I told you last year that we would act to fill this job as soon as possible. I am pleased to announce that we have filled that position effective October 4, 2004. I believe we have selected a person with the specific experience that I wanted for this critical position.

FORMULA ALLOCATION NEGOTIATED RULEMAKING

I'd like now to update you on the status of the NAHASDA formula rule. The Department participated with the Neg-Reg Committee in seven meetings, which resulted in drafting a proposed formula rule. The Committee approved the draft and it

was forwarded to the Office of Management and Budget (OMB). OMB has completed its review and has cleared the rule for publication. No substantial changes were made to the substance of the negotiated rule as a result of the OMB review process. We will be meeting via conference call with the full neg-reg committee to discuss OMB's comment and will meet with the full committee after the public comment period on the proposed rule.

FUTURE NEGOTIATED RULEMAKING II

This year we are planning to establish a second negotiated rulemaking committee that will provide advice and recommendations on developing changes to the Indian Housing Block Grant program. A proposed notice has been drafted and we expect it to be published this month.

CONCLUSION

Finally, let me state for the record that the President's budget request for HUD's Indian housing, community and economic development programs supports the progress being made by tribes in providing the housing needed in their communities and throughout Indian Country.

This concludes my prepared remarks. I would be happy to answer any questions you may have.

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-1000

ASSISTANT SECRETARY FOR CONGRESSIONAL
AND INTERGOVERNMENTAL RELATIONS

APR 1 2005

The Honorable John McCain
Chairman, Committee on Indian Affairs
United States Senate
Washington, DC 20510-6450

Dear Mr. Chairman:

Thank you for your letter of February 25, 2005, which submitted questions regarding the President's fiscal year 2006 budget request for Indian programs. The Department of Housing and Urban Development's response to each question follows.

Q. Can you explain why the program [the Native American Housing Block Grant Program] is proposed for such drastic cuts [$100 million]?

A. While the Administration's 2006 budget proposal would reduce funding under the Native American Housing Assistance and Self-Determination Act (NAHASDA), this budget still recognizes the low-income housing needs in Native American Communities. Most of HUD's programs have taken a pro-rata reduction in order to fund the rising cost of tenant-based Section 8. The Native American Housing Block Grant is expecting to carry over approximately $93 million into fiscal year 2006. Thus, with the $518 million in appropriations along with $93 million in carryover, all requirements are expected to be met. The Department has set goals to increase its recipients' leveraging of federal dollars with other funding sources. For example, tribes are finding ways to use the leverage provided by Title VI dollars to create financing solutions for housing and community development. This budget also increases the budget authority for Section 184 Indian Housing Loan Guarantee program. These are trends the Department has encouraged and must continue to encourage and promote in an era of austere budgets.

Q. Is PART a good tool for measuring the program's effectiveness?

A. PART has brought focus to the Department's data collection efforts and performance measures to ensure that tribes and tribally designated housing entities (TDHEs) are able to demonstrate that the Native American housing and community development programs are realizing the outcomes that were intended by Congress. HUD's data collection efforts will help the Department, tribes and TDHEs demonstrate whether the intended outcomes are being realized. The Department is also consulting with tribally elected leaders and TDHEs for their input so that HUD may improve and streamline data collection through the required Indian Housing Plan (IHP), the Annual Performance Report (APR) and the Annual Status and Evaluation Report (ASER) for the Indian Community Development Block Grant Program (ICDBG). The Department believes this will further the efforts to demonstrate the effectiveness of the Indian Housing Block Grant program.

Q. Does the Administration propose to continue the 1 percent set-aside [from the Community Development Block Program for Indians]? If not, how will Indians fare under the CDBG program in Commerce?

A. The President's budget request for fiscal year 2006 proposes a new consolidated grant-making program, "Strengthening America's Community Initiative," based on job loss, unemployment levels and poverty. The CDBG program is proposed to be a component of this consolidated grant-making proposal; however, the Indian Community Development Block Grant (ICDBG) portion of the CDBG will remain with the Department's Office of Public and Indian Housing and will be administered by the Office of Native American Programs. The ICDBG will continue to provide grants to tribal governments in a manner as in previous years.

Q. Given the low economic statistics on reservations, is it reasonable to emphasize loan guarantees over the tribal block grant program?

A. Yes. While not overlooking the need for Native American Housing Block Grant funds, the Department's homeownership efforts on behalf of Native American communities will continue at an accelerated pace. HUD will also increase its efforts in promoting leveraging of federal dollars with private investments for both rental housing and homeownership. The Department believes accessing greater sources of private capital will increase housing opportunities on Indian reservations, on trust or restricted Indian lands, in Alaska Native Villages and on the Native Hawaiian Homelands.

The Department is proud of its efforts and yet recognizes that much remains to be done. It is my hope that Congress and this Administration together will find ways to alleviate some of the hardships that low-income families face—whether it be in an urban setting or on a rural reservation.

Thank you for your interest in the Department's programs. If I can be of further assistance, please let me know.

Sincerely,

Steven B. Nesmith
Assistant Secretary for Congressional and
Intergovernmental Relations

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-1000

ASSISTANT SECRETARY FOR CONGRESSIONAL
AND INTERGOVERNMENTAL RELATIONS

The Honorable John McCain
Chairman, Committee on Indian Affairs
United States Senate
Washington, DC 20510-6450

Dear Mr. Chairman:

Thank you for your letter of February 23, 2005, which submitted questions from Senator Conrad regarding the President's fiscal year (FY) 2006 budget request for Indian programs

Senator Conrad's questions are as follows: "Does the Department of Housing and Urban Development agree with the recommendations outlined in the report [*Mold and Moisture Problems in American Indian and Alaska Native Housing on Tribal Lands: A Report to Congress*] to address this growing problem? If not, what recommendations does HUD have for addressing this health issue? What resources, if any, are included in this budget to address this problem [$73.3 million needed to remediate mold-infested homes throughout Indian Country]? If no resources are included, how does HUD propose to solve this problem?"

HUD has demonstrated meaningful leadership in addressing mold and moisture problems in Indian Country. Significant staff and contract resources have been devoted to these efforts, including more than $3.2 million in contract services from FY 2001 through FY 2005. This assistance, to date, has included 55 on-site technical assistance visits, 19 training sessions, and the production of numerous educational publications and videos. The Department has earmarked $750,000 of technical assistance funds for use in FY 2005 and future years to continue these efforts Please be assured that the Department remains committed to addressing mold and moisture problems in Indian Country.

The Department is proud of its efforts and yet recognizes that much remains to be done. It is my hope that Congress and this Administration together will find ways to alleviate some of the hardships that low-income families face—whether it be in an urban setting or on a rural reservation.

Thank you for your interest in the Department's programs. If I can be of further assistance, please let me know.

Sincerely,

Steven B. Nesmith
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WASHINGTON, DC 20410-1000

ASSISTANT SECRETARY FOR CONGRESSIONAL
AND INTERGOVERNMENTAL RELATIONS

The Honorable John McCain
Chairman, Committee on Indian Affairs
United States Senate
Washington, DC 20510-6450

Dear Mr. Chairman:

Thank you for your letter of February 17, 2005, which submitted questions from Senator Coburn regarding the President's fiscal year 2006 budget request for Indian programs.

Senator Coburn's questions are as follows: "Please provide additional documentation to support your request for an increase for the Section 601 [Title VI] Loan Guarantee Program. How many are served by the program? Please include available statistics on the program, including population data, default rates, and any other justifications for the Administration's request."

The Title VI program is a component of the Native American Housing Assistance and Self-Determination Act of 1996, as amended (NAHASDA). Although the Title VI program has been underused in past years, interest and activity in the program is increasing. It has become a vital financing tool for affordable housing in Indian Country, encouraging borrowers to leverage scarce federal resources with other public and private funding sources.

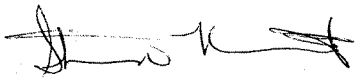
The Administration's 2006 budget proposal would reduce funding under NAHASDA overall by approximately $39 million; however, the increase in the NAHASDA set-aside for Title VI is consistent with the Department of Housing and Urban Development's goal to increase its recipients' leveraging of federal dollars with other funding sources. Tribes are finding ways to use the leverage provided by Title VI dollars to create financing solutions for housing and community development. This is a trend HUD has encouraged.

- The Title VI program represents a public/private partnership that has produced approximately $87 million in loan guarantees.
- There have been no defaults in the program.
- Tribes have invested these dollars to improve infrastructure, build multi-family housing, community facilities, develop subdivisions and fund mortgage loan programs for tribal members.
- Since the first loan closed in 2000, approximately 1,100 Native American families have benefited from Title VI investments.

- As of March 1, 2005, there were 15 Title VI applications in various stages of processing, amounting to approximately $21 million. At least six more tribes have recently expressed an interest in applying.
- The $4.8 million proposed for Title VI in fiscal year 2006, will support $37.9 million in loan guarantee authority.

Thank you for your interest in the Department's programs. If I can be of further assistance, please let me know.

Sincerely,



Steven B. Nesmith
Assistant Secretary for Congressional and
Intergovernmental Relations

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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

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.

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March 11, 2005

The Honorable John McCain
Chairman, Senate Committee on Indian Affairs
United States Senate
Washington, DC 20510

Dear Senator McCain:

Thank you for the opportunity to address questions raised at the February 16, 2005 hearing on the President's Fiscal Year 2006 Budget Request for Indian Programs.

NCAI submits the following enclosed responses to each of your questions. We appreciate the chance to provide this information and we look forward to working with you and the Senate Committee on Indian Affairs in the future as Congress shapes this year's budget.

If you have any questions, feel free to contact me and my staff at 202-466-7767.

Sincerely,

Tex Hall,
President

Enclosure

Question Responses for Senator John McCain
Indian Affairs Committee Budget Hearing
Wednesday, February 16, 2005

1. Need for Tribal Data.
Q. Currently, how do tribes measure the impact or success of federally funded programs administered by self-determination or self-governance compacts?

NCAI Response:
Currently tribes provide a vast amount of data to the Bureau of Indian Affairs (BIA) and the Office of Self-Governance (OSG) for federally funded programs administered through self-determination contracts and self-governance compacts. Tribes provide programmatic data and some financial data, as well as respond to periodic "data calls" from the BIA and OSG. Unfortunately, there are problems with: (a) the way the data is collected, analyzed, and used by BIA; and (b) the comprehensiveness and appropriateness of data that tribes submit to BIA and OSG.

The BIA readily admits that they do not have the capacity and infrastructure in place to collect appropriate data from tribes and BIA regional offices, compile the data, analyze it (including an examination of longitudinal trends and forecasting to estimate future needs and new trends), and use it to inform, support, and justify policy and budget decisions. Moreover, the data that is collected from tribes for federally funded programs administered by self-determination contracts and self-governance compacts is often not outcomes-based, and therefore, cannot show the impact or success of federally funded programs in tribal communities. Often, data elements collected by BIA/OSG are process measures (i.e. how many people were served by a particular program?). While this data are useful to understand how widely services were provided, they do not describe the effect of the program (i.e. what difference the services provided under a certain program made to the individual or family). Further, it is often difficult to collect any kind of positive outcome measures when programs are so significantly under-funded and tribes must supplement funding as they can. There is a real tension between wanting to show program success and the very real impact of the underlying unmet need. Finally, despite serious improvement in the last 5 or so years, the data that BIA/OSG collects from tribes is still incomplete, as a minority of tribes fail to submit programmatic data in a timely manner.

In recent years, BIA, OSG, and tribes have become increasingly frustrated by the vicious cycle of the lack of standardized, outcomes-based data requests coming from BIA/OSG; the inability of BIA/OSG to compile, analyze, and use the data in a meaningful way; and the decision of some tribes not to submit data to the BIA/OSG because these agencies do not utilize it budget and policy development.

The good news is that this intense frustration has brought the BIA Budget Advisory Council, the BIA/Tribal Data Management Workgroup, and the National Congress of American Indians together for frank discussions about how to address this situation. The BIA/Tribal Data Management Workgroup has made strides over the last five years in selecting a few BIA programs each year for which to collect standardized outcomes-based data- quantitative as well as qualitative. The Workgroup has also been collaborating with BIA and OSG to develop a policy for how BIA/OSG should protect, manage, and use the data they do collect. While, these efforts are still a long ways

from comprehensive tribal outcomes-based funding for all self-determination contracts and self-governance compacts, they are movement in the right direction. Tribes do feel a need to be accountable to their own communities and to the federal government, and tribes are currently exploring the best ways to ensure a standardized, outcomes-based approach to data collection that can facilitate this dual accountability.

The implementation of the Government Performance and Results Act (GPRA) as well as the more recent use of the Performance Assessment Rating Tool (PART) could be used to address some of these issues. Currently, problems with GRPA and PART implementation abound. The revolving door at the Assistant Secretary's office of the BIA is the first problem. Turnover in the upper management of the BIA makes it difficult to set a consistent direction for strategic management. By the time leadership determine a philosophy and set of priorities and these priorities trickle down to Indian Country, the leadership is already turning over, and tribes have to prepare for a new direction and philosophy from new leadership. Tools such as the BIA's planning processes, GPRA goals, and PART criteria suffer from these changes as well. Each new Assistant Secretary and their staff have a different perspective on these tools and how best to use them. There have been problems with communication from BIA Central Office to tribes about GPRA and PART. Moreover, neither of these tools have benefited from significant tribal input.

The BIA/Tribal Budget Advisory Council has developed a PART subcommittee in collaboration with the BIA Office of Planning. The first goal of this group has been the provision of training to tribes regionally on PART. The first of the ten 4-day regional sessions has already been held. Nine more regional sessions will be held in the next five months. These sessions will educate tribes about GPRA, PART and the planning and measurement tools that the BIA has in place. The BIA needs to go further though. GPRA/PART coordinators should be present at the tribal level. Tribes have significant guidance to give the BIA about how programs actually operate on the ground and how best to measure program outcomes. The BIA desperately needs this assistance. PART reflects the lack of tribal input and BIA planning. In the last budget cycle, BIA did not even set standards for programs until they were selected for PART review. Tribes can help BIA to explain program purposes and identify appropriate outcomes.

Tribes can also be helpful to BIA and the Office of Management and Budget (OMB) in reviewing the initial PART analysis. An internal review before PART analyses are reported back to OMB has proved useful in clearing up a number of misunderstandings. For example, this year, an internal review of the PART analysis of the BIA Housing Improvement Program (HIP) helped to clarify OMB questions about the program. After BIA and tribal clarification about program data used in the PART analysis, the PART score went up. Another compelling example of the value of an internal review process can be found in the area of Law Enforcement. An initial PART review found data showing increasing arrests to be a negative performance outcome; however, clarification during a BIA/tribal review clarified that increasing arrests were attributable to the greater number of police officers patrolling Indian lands, which in turn resulted in greater police reports, and finally in increased arrests. The increase in arrests, then, were in fact a positive performance measure, reflecting the increased police presence in Indian Country. A standardized internal review of PART analyses could help clear up many of the ways that data could be misconstrued. Tribes have valuable knowledge to contribute to the interpretation of data gathered about their programs.

Q. How do you propose overcoming the historic reluctance of tribes to share such information with the administration?

NCAI Response:
There are some ways to address the historical reluctance of tribes to share information with the Administration, some of which I have alluded to earlier. A comprehensive approach to addressing this reluctance would include three key elements: (a) targeting tribal governments with a public education campaign to increase their awareness of the importance and benefits of collecting and reporting data; (b) ensuring meaningful data is collected in a uniform way; and (c) developing specific policies for data use and protection.

First, although tribal governments are increasingly feeling the need to report data and be accountable and doing so at higher rates than they have previously, they have not yet really seen the benefits of doing so. A public education campaign could focus not on only on negative messages about what happens when good data is not available (i.e. federal funding cuts, development of inappropriate or harmful policies, etc.) but more importantly on positive messages about informed federal policy development, budget development that is truly based on tribal needs and priorities, and an increased ability for tribal governments to assess the impact of their programs, redesign them to better meet local needs, and target scarce resources to the most effective programs. However, a public education campaign based on these messages must be backed up with a concerted effort to deliver this reality- an opportunity for tribes to easily report meaningful data that is used by the federal government and translated back into new resources for critical programs that have a substantial impact on Indian communities.

Second, meaningful data must be collected in a uniform way so as to allow for aggregation and comparison to non-Native communities and programs. Such an effort requires at least two distinct components: (a) consultation with tribes to determine standardized data elements to collect for each program, including culturally appropriate measures of success (which will vary by community but can generally be accounted for in succinct measures) and (b) the development of infrastructure and provision of training to ensure access to the technical means necessary to report as well as adequate knowledge to report data correctly. Tribal access to software or web-based reporting systems is absolutely necessary. Moreover, regional trainings on data reporting and technical assistance must be available.

Finally, there must be clear parameters around how data is managed, protected, and used. The earlier two components will certainly fail without this critical lynchpin. Tribal governments must be assured that their data will not be used in any way so as to harm them or released publicly, disaggregated, in a way that they have not consented to. A federal data control policy, which tribes have had input into and have approved, is necessary. It may also be appropriate to consider an external data repository and/or an intermediary data analysis center to protect sensitive tribal data from Freedom of Information Act requests.

2. ***Carryover funding. According to the BIA, from year-to-year, they experience a substantial carry-over of unspent funding – they report directing funds to areas where tribes report an existing need. Yet, tribes do not apply or timely spend the funds. As a result, the BIA is required***

to return or redirect money to other programs which gives an appearance that the need does not exist.

Q. Is this a fair characterization of what is occurring and if so, how would you propose the BIA and tribes remedy this reoccurring problem?

NCAI Response:
The characterization of unspent funding from year-to-year in the Bureau of Indian Affairs as substantial carry-over is not quite accurate and is more of a misnomer. Up to a few years ago, BIA had single year funding until Congress changed the funding cycle from one to two year funding. By the end of the two year funding cycle, funds are usually nearly completely obligated. However, there is inconsistency between what BIA identifies as carry-over balances and what the appropriations law states, which is that funds are to remain available for two years. BIA considers funds in the middle of the two year funding cycle to be carry-over, at which point, the identified carry-over balances are recaptured from regional offices and away from tribes. Ultimately, tribes do not receive the necessary funds due to this particular view of carry-over balances. The misnomer indeed results in the appearance that tribes have less need, which NCAI, tribes and the United States Commission on Civil Rights have unequivocally shown is not the case.

If carry-over balances continue to be defined as such, one solution to protect tribes would be to require any movement, reprogramming, or reallocation of any funding deemed as carry-over to receive prior approval by Congress. Additionally, any recaptured funding considered carryover should be redistributed to the neediest tribes. Delays between the Central Office and Regional Offices also impedes the process of funds actually reaching tribal governments and programs.

3. Q. In your opinion, is the BIA request of $19.2 million dollars for law enforcement and the DOJ request of $51.6 million for COPS adequate to meet these needs?

NCAI Response:
The $19.2 million dollar increase for law enforcement services within the BIA is a start at addressing the violent crime that plagues Indian Country. The vast majority of funding within the requested $19.2 million dollars is dedicated to improving and expanding correctional capability in Indian Country jail systems. NCAI supports these increases. However, there are no specific set asides in the President's budget proposal to conduct victim services activities, operate substance and alcohol abuse treatment programs, train tribal law enforcement officers, or hire tribal law enforcement officers.

The $51.6 million dollars requested by the DOJ for the COPS program is an increase over the FY 2005 enacted amount and this increase will go a long way toward funding tribal law enforcement. Currently, the FY 2006 budget calls for the funds to be disbursed under a consolidated OJP/COPS Tribal Law Enforcement Grant Program. The funding can be used to fund tribal law enforcement officers, prosecutors, and judicial officials under terms similar to current COPS Tribal Law Enforcement grant programs. After a three-year period the funding would expire and Tribal governments would be left to fund law enforcement services within Indian Country. Such a situation is a step back in the Federal role of providing long term funding and planning to combat

crime, which is badly needed for addressing the well-documented violent crime increases in Indian communities.

Q. Have tribes that operate their own jails developed accountability measures for spending and operations?

NCAI Response:
The Bureau of Indian Affairs, Office of Law Enforcement Services, is primarily responsible for developing and implementing accountability measures for spending and operations related to Indian Country jails. Organizations such as the Justice Research and Statistics Association have assisted Tribal governments compile statistics tracking Federal spending for Indian Country jails. However, there has not been a comprehensive study or compilation that shows how money is allocated and for what purpose, as it relates to the operation of Indian Country jails. NCAI agrees that there is a need for increased accountability of both spending activities and operations within Indian Country jails. NCAI also recognizes both Tribal governments and the Federal agencies must work cooperatively to develop standardized reporting how and where money is spent so that Congress can provide oversight with regard to spending activities.

Q. Have tribes established a uniform measure of crime rates in Indian Country?

NCAI Response:
Establishment of a uniform measure of crime rates in Indian Country is not an established affirmative duty of Indian Tribes. Both the BIA's Office of Law Enforcement Services and the DOJ's Bureau of Justice Statistics along with the Federal Bureau of Investigation compile criminal statistics related to Indian Country. When the Federal agencies have not adequately provided technical advice and funding to gather criminal statistics Tribes have relied upon organizations such as the Justice Research and Statistics Association to assist them in the process of gathering criminal statistics. Within the most recent FY 2006 budget, $3 million dollars has been requested to fund a comprehensive national study to be conducted in coordination with the BIA to establish baseline estimates of existing tribal law enforcement operations and needs for use in future DOJ and BIA budget decisions. This funding to compile statistics is a start, but Federal agencies must coordinate their activities so that the BIA and DOJ use forms consistent with the FBI standards for uniform crime reports published by the FBI. This could eventually solve two problems: 1) it would allow effective compilation of accurate criminal statistics; and 2) it could allow criminal history to be created which could be shared among agencies as criminal intelligence communications once recorded in FBI criminal database systems such as NCIC.

4) Q. Does NCAI support a larger allocation of resources to the land consolidation program?

NCAI Response:
NCAI strongly believes that the Indian land consolidation program should be fully funded at the authorized $95 million level for FY2006. The authorized funding levels in P.L. 108-374, the American Indian Probate Reform Act of 2004, had the full support of the Congress and the Office of Management and Budget, as is reflected in the Committee Report for the legislation. The authorized funding levels are:

- 75 million for FY2005
- 95 million for FY2006
- 145 million for FY2007 through 2010

For FY2005, the Administration originally proposed full funding at $75 million. However, Congress reduced the request to $34.5 million because of concerns about the *Cobell* litigation. In P.L. 108-447 the appropriators noted, "The managers are concerned about recent events in the courts that will likely slow the process of Indian land consolidation and reduce the ability of the Department of the Interior to obligate funds for acquisition of lands.... The actions of the court concerning notifying Indian landowners of ongoing litigation will undoubtedly slow the process of consolidation of lands."
NCAI recently held a meeting with the Department of Interior on land consolidation and it is our understanding that the landowner notification provisions required by the *Cobell* litigation have been satisfactorily integrated into the process and no longer pose a serious impediment to land transactions. It appears that the Department is in a position to rapidly scale up its land acquisition program, particularly in the Great Plains and Midwest Regions (where over 50% of fractionated interests lie), and it would have no difficulty obligating the funds if they were appropriated by Congress. Expansion of the program into the Rocky Mountain and Navajo Regions is also dependent on increased funding.

Fractionation of ownership exponentially increases the complexity and cost of federal administration and deprives Indians and tribes of the benefit of their resources. As we saw last year with the passage of the probate reform statute, support for land consolidation is one area of trust reform where we have broad agreement among Tribes, the Administration and Congress. The new law will limit the growth of fractionation, and it creates important tools for land consolidation. But the problem is far from fixed. Today, there are approximately four million owner interests in the 10 million acres of individually owned trust lands. Moreover, there are an estimated 1.4 million fractional interests of 2 percent or less involving 58,000 tracks of individually owned trust and restricted lands. There are now single pieces of property with ownership interests that are less than 0.000002 percent of the whole interest. Management of this huge number of small ownership interests has created an enormous workload problem at the BIA. Now is the time for Congress to fully invest in land consolidation and fix this horrendous problem. We believe that an investment in land consolidation will pay much bigger dividends than any other "fix" to the trust system.

5) Historical Accounting. Q. Does NCAI consider this an appropriate allocation of resources within the Department of Interior -- $135 million for accounting activities?

NCAI Response:
NCAI has previously testified that this amount of money for historical accounting is not justified because the Department of Interior has repeatedly demonstrated that it cannot perform a historical accounting for the individual Indian accounts. The simple fact is that too many records are missing – there is no way to do an accounting if DOI doesn't have the records. All DOI is going to end up with is a restatement of the existing inadequate disbursement records with no correlation to receipts, as those records are almost nonexistent.

By some estimates, even this incomplete accounting could cost in excess of $12 billion – nearly all of it going to contracted accounting firms rehashing hundreds of years of inadequate records. Nearly everyone who has looked at this problem believes that it would be far wiser to spend the money in settling the accounting claims and actually providing some benefit to the Indian people who were the victims of trust mismanagement. Many of our elders have lived their entire lives in poverty and it makes sense to provide them with relief now. Moreover the funds could be spent on land consolidation which would also bring funds to the Indian landowners and would dramatically reduce the costs of federal trust administration.

Finally, the Administration's budget proposal for historical accounting is also robbing Peter to pay Paul. The budget takes over $108 million out of other BIA programs in order to pay for the historical accounting. Essentially this budget would make the Indian people pay for the federal government's mismanagement of their trust funds.

Of the $135 million for historical accounting, $40 million is targeted for a historical accounting of tribal accounts. Our understanding is that the accounting for tribal funds is in some cases less complicated and more valuable. We do not have enough information at this time to speak to this issue, and believe that it would be worthwhile to consult with the Inter-Tribal Monitoring Association on this question.

Testimony of

Chester Carl,

Chairman

NATIONAL AMERICAN INDIAN HOUSING COUNCIL

Before the

SENATE COMMITTEE ON INDIAN AFFAIRS

February 16, 2005

Chairman McCain, Vice Chairman Dorgan, and other distinguished members of the Committee, my name is Chester Carl and I am happy to be back before this Committee once more as Chairman of the National American Indian Housing Council. On behalf of the members of NAIHC and its Board of Directors, I would like to thank you for this opportunity to address you today on the President's proposed budget for fiscal year 2006.

THE PRESIDENT'S BUDGET REQUEST:

There is not much I can say today that we have not already heard or anything I can present that would better illustrate the need in Indian Country than has already been presented. Everyone here knows the crisis we are in. Native Americans are three times more likely to live in overcrowded housing than other Americans. Native Americans are more likely to lack sewage and water systems, and more likely to lack telephone lines and electricity than other Americans. We have pleaded our case over and over with harrowing statistics and heartrending stories. What has it come to?

The last time I testified at an Indian Affairs Committee budget hearing was in 2002. That was the first year we began to see a decline in the Indian housing budget after several years of surplus and growth. Today is much different. The President's fiscal year 2006 budget proposes the smallest amount of funding for Indian housing programs since the implementation of NAHASDA. Tribes' access to funding for basic housing services would be reduced by more than $100 million in fiscal year 2006, a 15% reduction they can ill afford.

John F. Kennedy once said, "Man holds in his mortal hands the power to abolish all forms of human poverty." To third world nations, developing nations "struggling to break the bonds of misery", JFK pledged "our best efforts to help them help themselves." The world has not changed much these past forty years, as

we can see in our current efforts in Iraq. But how disturbing that the federal government had to look outside its own borders to identify human need – to justify continued dedication of billions and billions in funding to improve the living conditions of the Iraqi people when so many American Indians and Alaska Natives daily endure the same third world conditions. Where are our best efforts to help Native Americans help themselves?

Not in this budget.

We do understand the need to protect our borders. Native Americans have made a significant patriotic commitment to ensuring freedom for all people, as Native Americans have the highest percentage of military service of any ethnic group in the nation. I will propose an initiative today that seeks to honor the dedication of Native American veterans.

But I believe I speak for all members of the National American Indian Housing Council when I express my frustration and anger that a national priority shift and aid to a people in need thousands of miles away is being paid for by those in America who can least afford it. While assistance in the Middle East is admirable, America seems to have never understood the urgency of the need to lift people from poverty and ignorance and despair here at home in order to strengthen this country. The poverty rate for Native Americans, which continues to hover at about 26 percent, is more than double the poverty rate for the general American population.

We are 562 legitimate sovereign governments in exile. We have no ambassador to speak for us at the White House as other nations do. In housing, we are not consulted by the federal government on the budget. We continue at the mercy of Congress and the Administration, hoping for a miracle.

We understand fiscal year 2006 will see one of the tightest budgets in history, and Congress will have to take extra consideration when weighing all domestic programs. But we ask that when making these funding decisions, Congress keep in mind that inflation has steadily risen over the past four years, the cost of construction continues to increase, and the Indian population is growing. Please do not allow housing development for needy Indian communities pay the price of assistance for other needy communities half a world away.

FUNDING NEEDS FOR INDIAN HOUSING:

NATIVE AMERICAN HOUSING BLOCK GRANT

Since the beginning of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA), this Committee has continually shown its support for growing tribal housing programs. You have facilitated three difficult amendments packages and a reauthorization in the last four Congressional sessions which have improved NAHASDA extensively. But if there is not enough funding to put into NAHASDA, much of that effort will remain unfulfilled.

To meet the current needs to address infrastructure and basic housing stock, NAIHC estimates we need **at least $1 billion *per year* in funding for the Native American Housing Block Grant**. We believe that $723 million for FY 2006 would be a sufficient start.

The President has proposed only $582.6 million for NAHASDA for fiscal year 2006. This is a devastating blow, particularly in light of the proposed set-aside for the Indian Community Development Block Grant, which I will discuss in a moment. Funding for NAHASDA dropped from $651 million in FY 2004 to $622 million in FY 2005, which in itself has caused Tribes to cut back on their services. With any additional substantial reduction, some smaller housing authorities may need to shut down altogether.

Because of the diversity of cultures, economies and geography, housing needs in Native communities are extensive and varied. Basic infrastructure, low-rent housing, homeownership and housing counseling services are all essential. The NAHASDA block grant allows Tribes the autonomy to supply housing as they see fit for their people. And as a recent Harvard University study as shown, Tribes have accomplished much with little resources, due in large part to self-determination. According to the "American Indians on Reservations: A Databook of Socioeconomic Change Between the 1990 and 2000 Censuses," housing overcrowding decreased during the past decade, particularly in areas without gaming, and the percentage of Native people living in homes without plumbing increased in gaming and non-gaming areas. "Self-rule to Tribes can bring, and has brought, improvements in program efficiency, enterprise competency, and socioeconomic conditions," stated Harvard researchers in the study. We see that statement as proof NAHASDA is an excellent program and should be supported. Reduction in funding will reverse this trend.

Model NAHASDA on the Indian Self-Determination Act

As a better way to utilize the scarce funds available to us, I submit to you today the suggestion that housing funds be restructured to function similar to the Indian Self-Determination and Education Assistance Act, P.L. 93-638, which is available for many current BIA programs. Under the Self-Determination Act there are existing mechanisms that may simplify and streamline the funding distribution process as well as maintain adequate oversight responsibility. "Self-Determination" is in the title of NAHASDA, but with all of the oversight and need for justification that continually sap the resources of the tribes, we are hard put to find where that self-determination comes into play.

This restructuring similar to the 638 program is in line with a demonstration project authorized by Congress when it reauthorized NAHASDA in 2002 that would allow Indian tribes and tribal organizations to receive NAHASDA funds in a manner that maximizes tribal authority and decision-making in the design and implementation of federal housing activities that is consistent with the Indian Self-Determination Act. In light of the planned massive cuts in funding and technical assistance for NAHASDA, a shift in program funding and operation in a manner that is consistent with the 638 program will yield tremendous benefits to the federal government, the Indian nations, and, most importantly, to the Indian people they serve.

Under the self-determination act process, Indian nations and TDHE would receive their funds in a lump sum at the beginning of a 638 contract. This will allow greater flexibility in funding decisions by the tribes, eliminate the lengthy and time consuming process of development of an annual Indian housing plan with the corresponding burdensome approval process, simplify the reporting process and reduce the need for oversight responsibility, while retaining an appropriate level of accountability in accordance with applicable regulations.

COMMUNITY DEVELOPMENT BLOCK GRANT

In this budget, the President has recommended dismantling the Community Development Block Grant program and shifting most of its funding to a new program at the Commerce Department. The Indian Community Development Block Grant (ICDBG), once a set-aside out of CDBG has been proposed to stay at HUD as a set-aside out of NAHASDA, which further decreases an already inadequate funding stream. When added to the initial cuts to NAHASDA, the additional set-aside of ICDBG funds reduces available NAHASDA formula funding by over $100 million.

Even without the decrease in funding, NAIHC sees this as a completely incompatible transfer. The ICDBG program is a crucial tool for the development of infrastructure and economic opportunities and it is a competitive program. It has completely different goals and functions than NAHASDA, which is allocated according to a formula and addresses basic housing development needs for the tribes.

NAIHC believes that both to develop effective housing strategies and for the economic development needed to support homeownership and job creation, **the ICDBG should be funded at least at the FY 2005 level of $69 million and be kept as a separate account.**

RURAL HOUSING AND ECONOMIC DEVELOPMENT PROGRAM
We are disappointed to see that the Rural Housing and Economic Development program was again left out of the President's budget, even though it provides needed capacity assistance to rural, local and state organizations, including tribes. The RHED program provides capacity building assistance, funds for innovative activities, and seed support for new programs. Grants have supported micro-enterprise development, affordable housing construction, small business incubators, and staff development and computer software. In the first year alone, 749 organizations applied for funding, and only 91 grants could be awarded. The good news is that tribes generally receive about half of the grants awarded. There is a real need for this type of flexible funding. For the last four years, Congress restored funding for this important program, which was left out of the FY 2003 - FY 2006 budgets. **We ask you to support continued funding at the $25 million level.**

BIA HOUSING IMPROVEMENT PROGRAM
The Housing Improvement Program (HIP) at the Bureau of Indian Affairs was the original housing program for tribes at BIA before the beginning of HUD assistance. Even after implementation of the NAHASDA block grant, however, the BIA HIP program continues to play an important role in tribal housing. Much of the housing stock in Indian Country is either aging or was cheaply built in the first place. Rehabilitation is therefore one of the most desperately needed services. Funding for HIP has hovered around $20 million a year for many years. **Tribes would be well-served to see this fund increased to at least $35 million a year to supplement other housing efforts.**

TECHNICAL ASSISTANCE:

The President has proposed reducing technical assistance funding for the implementation of NAHASDA in FY 2006 by eliminating both the $2.2 million NAHASDA set-aside and $2.4 million CDBG set-aside for NAIHC, which supplements HUD's technical assistance funding, proposed at $2.2 million less than appropriated in FY 2005. In spite of a budget request to eliminate one of the set-asides last year, Congress chose to fund NAIHC's efforts in final FY 2005 appropriations in the amount of $2.2 million under NAHASDA and $2.4 million under CDBG. We would like to see the same happen in FY 2006.

HUD's Native American Housing Block Grant is not an easy program to administer if you have no experience with it. For tribes with extremely limited funds and/or limited experience it can be daunting trying to access and effectively use the NAHBG and other federal housing funds. For many years Congress has placed its faith in NAIHC to provide technical assistance and training to all tribes, not just NAIHC members. Originally only a CDBG set-aside, the additional set-aside from the NAHBG was added in FY 2000 since it appeared HUD's technical assistance money was being used mostly to augment insufficient allocation for salaries, expenses, and payments to consultants, while money for NAIHC is used exclusively for capacity building on the tribal level. In particular, small tribes across the country are in desperate need of on-site support and training. HUD is simply unable to address this need when their job is to administer and provide oversight for the program. Furthermore, often HUD will release guidance and notices for which they are unable to provide implementation assistance. This is where NAIHC steps in.

Listed below is each of the major items funded by the $2.2 million NAHBG set-aside in 2004:

Scholarships. In 2004, NAIHC awarded **592** scholarships for tribal housing staff to attend NAHASDA related training opportunities offered by NAIHC and HUD/ONAP. Scholarships provide an opportunity for Indian housing professionals to attend training on subjects relevant to Indian housing that they might not otherwise be able to afford. While this program is geared towards the staff of smaller tribes/TDHEs, all tribes/TDHEs are eligible for some level of scholarship assistance.

Mentoring. In 2004, NAIHC facilitated several mentoring trips. The mentoring program provides Indian housing professionals from one tribe to learn about well run programs at other tribes so that those success stories and programs can be replicated. Most of the mentoring visits in 2004 were centered on successful Homebuyer Education and Training programs.

Training. In 2004, NAIHC offered **43** FREE classroom sessions in subject matter areas that were relevant to running a successful Indian housing program. Classes ranged in length from **2** to **4** days depending on the complexity of the subject matter. In 2004, **654** individuals registered to attend these training sessions. Course topics covered included Tax Credit Compliance, Construction Contract Documents Orientation, and Executive Directors Orientation.

NAIHC expanded its specialty training workshops in 2004 with the addition of its homebuyer education program, *Pathways Home: A Native Homeownership Guide*. Indian housing employees who complete the *Pathways Home* course become certified homebuyer instructors who then are certified to help other Native people along the path to homeownership.

Training at Convention/Legal Symposium. In addition to the formal classroom sessions offered by NAIHC, NAHASDA related training tracks were also offered at our 2004 Annual Convention and 2004 Legal Symposium.

As you can see, NAIHC's NAHBG set-aside is being put to good use and being applied right where the tribes need it to implement NAHASDA.

Using the CDBG technical assistance funding, NAIHC provided on-site technical assistance to over **135** tribes in 2004 alone, supplemented by more than **215** emails and phone calls. Approximately **408** tribal housing staff attended training courses as part of NAIHC's Leadership Institute, separate from those courses mentioned above. The Leadership Institute provides courses in four different tracks: ***Housing Management Services; Administration and Planning; Development & Modernization; and Model Activities/Electives***.

Despite all this good work, NAIHC's funding was cut completely out of the President's budget. Tribal capacity will improve only when there is training and other assistance provided. To make this block grant program work efficiently, recipients must have access to assistance. NAIHC is able to show precisely how it has used its federal funding for the betterment of tribal housing programs. **We are requesting funding of $4.6 million in FY 2006 for NAIHC technical assistance, but only if the NAHASDA and ICDBG programs are fully funded.**

NATIVE AMERICAN VETERANS HOUSING AND OPPORTUNITY INITIATIVE:

Indian tribes take great pride in the role that Indian men and women play in the United States Armed Services, particularly those serving during this time of war. I ask you to keep in mind the families they have left behind and the millions of dollars the President has proposed to cut from Indian housing programs that directly affect those families. The funding helps provide basic infrastructure and housing to some of the most remote and isolated areas of our nation. We are deeply concerned for our warriors returning home from Iraq to housing conditions that are as bad or worse than what they left in Iraq. They will also face chronic unemployment and a lack of any meaningful economic opportunities.

To address these anticipated needs, NAIHC requests that Congress authorize and fund an initiative to provide housing and employment opportunities to Indian service men and women in the FY 2006 budget. We propose creation of a set-aside in the amount of $150 million to be distributed by an allocation formula. NAIHC sees this as a small price to pay to honor the sacrifice of these brave men and women.

CONCLUSION:

Mr. Chairman, I call on the President, the Congress, and the people of this country to join in a vast cooperative effort to satisfy the basic needs of not just the Iraqi people, but also the Native American people, for homes, work, land, health and schooling. Our need is just as great. And it is the right thing to do. I hope that we can look back on a time when the capacity for America to combat human suffering is realized not just contemplated.

In closing, we understand there are always going to be prevailing issues that will tend to overshadow tribal needs in the budget, but we urge you to not forget the desperate housing conditions Native Americans are enduring day after day. Consistent growth in the housing industry has been one of the brightest spots in our lagging economy. Don't allow Tribes to be left behind just when they are making headway in building sustainable tribal communities.

I would again like to thank all the members of this Committee, in particular Chairman McCain and Vice Chairman Dorgan, for their support for the Tribes and for Indian housing programs. NAIHC looks forward to working with each of you during the 109th Congress and I am happy to answer any questions you may have.

The National American Indian Housing Council is a 501(c)(3) organization representing tribes and tribal housing organizations nationwide. It operates a national technical assistance and training program as well as the Native American Housing Resource Center in Washington, DC through an appropriation from the Congress administered by HUD. NAIHC's offices are at 900 Second Street, NE, Suite 305, Washington, DC 20002; phone: (202) 789-1754, fax: (202) 789-1758; http://www.naihc.net.

National American Indian Housing Council

"A Tradition of Native American Housing"

March 10, 2005

Honorable John McCain
Chairperson
United States Senate
Committee on Indian Affairs

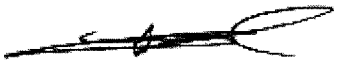
Dear Chairman McCain:

I am pleased to provide the attached responses to the questions posed in your February 25, 2005 letter and hope that they fully and effectively address your concerns. Thank you for giving me, the National American Indian Housing Council and Indian Country the opportunity to provide further input to such as important process.

As you are fully aware, housing conditions in much of Indian Country are dismal. We have only recently begun to experience noticeable improvements, and the proposed cuts would have a devastating effect. I hope you and the members of the Committee support full restoration of the funding.

Please feel free to contact me if I can be of further assistance.

Sincerely,



Chester Carl
Chairman, National American Indian Housing Council

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Response to Sen. McCain's Questions

1. **Q. How did the Native American Housing Block Grant program fare under the Program Assessment Rating Tool (PART) evaluation?**

The initial PART review of the Native American Housing Block Grant (formerly called Indian Housing Block Grant) program did not fare very favorably. However, I would like to point out that the Department of Housing and Urban Development's Office of Native American Programs (HUD-ONAP) was actually reviewed, as the federal agency responsible for administering the Block Grant program. HUD-ONAP was rated poorly because it lacked objective, quantifiable measures and did not compile, tabulate and assess performance data supplied to it by recipient NAHBG grantees.

As part of the requirements for receipt of NAHBG funds, tribes and their tribally designated housing entities (TDHEs) are required to annually submit both Indian Housing Plans (IHPs) and Annual Performance Reports (APRs). The IHPs identify and describe how the NAHBG funds are to be used in accordance with NAHASDA Section 202 Eligible Affordable Activities. The IHP requires goals and objectives, description of need and manner to address geographic distribution of assistance. HUD requires the tribes clearly state performance goals that are reported in the APR. The APRs describe and explain how the funds were actually used and include important performance outcomes, such as the number of new housing units constructed, the number of units rehabilitated, the number of families assisted etc. These outcomes evidence the effectiveness of the program at the individual tribal level and were supplied to HUD-ONAP yearly. Thus, the program may have appeared to be operating poorly when, in reality, the program was doing what it is intended to do, and doing it well under the circumstances (insufficient funding), but the federal agency responsible for collecting and assessing the data was the poorly performing player.

In support of this, I offer the Harvard Project on Economic Development study, which you referenced during the Senate Committee on Indian Affairs FY 06 Budget Hearing. Comparing 1990 + 2000 Census data systematically gathered and compiled by the U. S. Census Bureau, the authors concluded, among others, that significant improvements in Indian Country housing had occurred, particularly with respect to a reduction in overcrowding. These improvements occurred among both gaming and non-gaming tribes. For many, if not most, of these non-gaming tribes, there is little or no other reservation economic activity and these tribes depend heavily on the NAHBG for housing funds.

These results attest to the efficacy of Indian housing program operations. They further attest to the value of tribal self-determination in deciding how to best meet tribal housing needs. Finally, I believe they also attest to the value of the National American Indian Housing Council. Tribal leaders and housing staff are strongly committed to serving the needs of their tribal members, but that commitment must be complemented by knowledge skills and abilities necessary to optimally exercise that commitment. This is where NAIHC has a major role, providing the training, technical assistance, research, communications and development necessary to enhance the capacity of decision-makers. Finally, it is important to recognize that the gains recognized in the study happened in the decade of the 1990's. which saw increases in the implementation of tribal self-determination and, importantly, increases in funding directed to Indian housing.

Q. Is PART a good tool for measuring the program's effectiveness?

Please allow me to first reiterate that Indian Country understands and accepts the notion of program evaluation. We want to know that our programs are working and to be able to identify how to make them more successful. The true value of a program's evaluation lies in whether or not the results are used to make the program better. Ideally, the objective of evaluation should be to assess program strengths and weaknesses, so as to maximize the strengths and minimize the weaknesses, thus increasing program effectiveness. In some cases, the final result may be program termination. However, it is more important to determine why a program is effective or ineffective, rather than just whether it is or not. A program evaluated as ineffective may need only modest adjustments to make it truly successful.

PART evaluation should be based on the specific NAHASDA eligible activities and how the tribes are meeting the housing and economic needs as written in the IHP. HUD receives the information and evaluation should not be hard. Important underlying concepts to any evaluation are validity and reliability.

Validity refers simply to the fact that the measures accurately reflect what they are supposed to measure. Reliability refers to the consistency with which data are gathered for measurement. It appears that neither validity nor reliability existed in the PART review of HUD-ONAP as an assessment of NAHBG program effectiveness. This is particularly distressing to Indian Country as the Office of Management and Budget has advised us the FY05 NAHBG funding reductions occurred directly as a result of the PART review. It is even further distressing that greater reductions are being proposed for FY06, despite OMB's statement that significant performance measurement improvements at HUD-ONAP have occurred. The reduction in NAHBG funding further jeopardizes many Indian housing programs. With reduced funding many tribes struggle to meet the basic housing need, much less keep the doors open. NAIHC would be most willing to work with OMB and HUD-ONAP to develop measures that are valid, reliable, practical and reasonable.

2. **Q. What type of accountability exists to ensure that Native American Housing Block Grants are effective in addressing housing problems in Indian Country?**

Section 403(b) of the NAHASDA statute and Section 1000.502 of the program regulations require that the NAHBG recipient and the tribe be involved in monitoring program activities. The recipient must establish and implement self-monitoring systems and internal control procedures. If the recipient is a TDHE, the tribe must also monitor program activities and results. Additionally, the recipient is required to monitor the activities of any sub-recipients

Recipients are also required to submit Annual Performance Reports (APRs) to HUD-ONAP, identifying how the funds were used. The APR includes information on total dollars spent on each activity, the results of those activities, and the numbers of families assisted. The APR must be made available to the civilian population for review and comment prior to submission. It must also be submitted to the tribe for review and approval, if the recipient is a TDHE.

Additionally, all NAHBG recipients expending federal funds equal to or in excess of $300,000 must submit annual financial audits completed by an independent auditor, in compliance with the Single Audit Act and OMB Circular A-133.

Finally, NAHBG recipients are subject to on-site reviews by HUD-ONAP staff to assess compliance to the statute, its regulations and the recipient's own IHP.

In sum, the recipient is held accountable to itself, the tribe, the population it serves, and the statute and its regulations. If it is found to be deficient by any one or more of these, it will certainly be advised of such and be required to take corrective action. However, as noted above, Indian housing has met its expectations and requirements well.

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Testimony of David Beaulieu, Ph.D., President
National Indian Education Association
before the
Senate Committee on Indian Affairs
on the FY 2006 Budget Request
February 16, 2005

Chairman McCain and Vice Chairman Dorgan and Members of the Senate Committee on Indian Affairs, thank you for this opportunity to submit testimony on behalf of the National Indian Education Association with regard to the FY 2006 budget.

Founded in 1969, the National Indian Education Association is the largest organization in the nation dedicated to Indian education advocacy issues and embraces a membership of over 3,000 American Indian, Alaska Native and Native Hawaiian educators, tribal leaders, school administrators, teachers, parents, and students.

NIEA makes every effort to advocate for the unique educational and culturally related academic needs of Native students, and to ensure the Federal government upholds its immense responsibility for the education of American Indian and Alaska Native through the provision of direct educational services. This is incumbent upon the trust relationship of the United States government and includes the responsibility of ensuring educational quality and access. Recognition and validation of the cultural, social and linguistic experiences of these groups is critical in order to guarantee the continuity of Native communities. The way in which instruction and educational services are provided is critical to the achievement of our students for them to attain the same standards of students nationwide.

Although the National the National Indian Education Association supports the broad based principles of No Child Left Behind, there is widespread concern about the many obstacles that the NCLB present to Indian communities, who often live in remote, isolated and economically disadvantaged communities. There is no one more concerned about the accountability and documenting results than the membership of our organization, but the challenges many of our students and educators face on a daily basis make it difficult to show adequate yearly progress or to ensure teachers are the most highly qualified.

The requirements of the statue and its time frame for results do not recognize that schools educating Native students have an inadequate level of resources to allow for the effective

development of programs known to work with Native students. For example, the appropriation available under Title VII of the No Child Left Behind Act provides only a fee hundred dollars per student to meet the special education and culturally related needs of our students.

The implementation of the statue does not include within the definition of "highly qualified teacher" the idea that teachers educating Native students actually have the training and demonstrated experience in order to be effective teachers of Native students. Not only is there inadequate funding for NCLB, there are serious concerns about confused guidance on adequate yearly progress mandates, inadequate assessment examples for limited English proficient students, weakened protections to prevent high dropout rates to occur, a lack of focus on parental involvement, recognition of paraprofessional's qualifications, and a basic denial of civil rights.

Department of Education Budget Request

The Department of Education funds the education of Native American students by operating Native American targeted programs and setting aside funds within programs open to all students and transferring funds to BIA for BIA- Managed schools. Department of Education Native American Programs are often funded at the minimum level established by Congress, never the maximum. The federal government has not upheld its legal and moral obligation to provide sufficient funding for the education of Native American students.

President Bush's budget proposes a $529 million or .9% decrease to education equaling $69.4 billion in total budget authority for the Department of Education. The request for Alaska Native Education Equity and Education for Native Hawaiians is reduced to by 5% and 8% despite the fact that NIEA and native educators have been asking for 5% increases in all native education program funding. Indian program funding remains at the same level as FY 2005 at $119.9 million and down from FY04 and FY03 levels. Inadequately funding Indian education programs will diminish, if not undo, the progress that has been made. Within the past several years OIE has suffered from inconsistent funding, had never received full funding, and many subprograms have never been funded.

Title VII Programs

The purpose of Title VII programs, are to "meet the educational and culturally related academic needs of American Indian and Alaska Native students." The funds for these programs signify the only sources of funding that specifically address the cultural, social, and linguistic needs of Indian students. At current levels, these programs are under funded and the proposed levels would provide approximately $233 a student. NIEA recommends at least $250 per student is needed as such programs motivate students, support improved academic performance, promote a positive sense of identity and self, and stimulate favorable attitudes about school and others Native students are more likely to thrive in environments that support their cultural identities while introducing different ideas. The importance of such environments cannot be overstated.

Arizona State University recently completed a study that concluded while funding for Limited English Proficient students, including Native students, has increased overall, the funding has been spread so thin resulting in less dollars per eligible student. Additionally, the study reports that the pressure of raising scores of these particular students discourages instruction focusing on the true needs of bilingual students. This example demonstrates some of the inconsistencies in the NCLB Act. Title VII and Title III are explicit in the purpose of providing programs related to culture and language, however this sentiment is not expressed throughout the entire NCLB Act and the resulting practice is "teaching to the test."

Increasing the Department of Education budget for Native education programs by 5 percent would provide a step forward in helping Native students achieve the same high standards as other students nationwide, while at the same time preserving and protecting the integrity and continuity of Native cultural traditions. We realize that 5 percent will not address all of our needs, but we find the request to be reasonable and sensitive to the current budget environment.

Programs proposed for elimination that have a direct effect on native students include TRIO Talent Search, TRIO Upward Bound, Even Start, Perkins Loans, Exchanges with Historic Whaling and Trading Partners, and School Dropout Prevention, to name a few. While these programs may not have had the desired results across the board, they have provided an enormous benefit to Native students and served their intended purpose in Indian communities. Even Start serves a vital role in Native Communities, helping to break the cycle of poverty and illiteracy by providing assistance with writing and language skills to disadvantaged communities. Upward Bound and Talent Search programs have increased the skills and motivation for Indian students to pursue post-secondary education. These programs have had focused on the needs of our children and to eliminate the programs would cause a disparate impact to Native students. NIEA recommends restoration of these programs targeted for low- income students.

Title I Programs

Nearly 90% of the approximately 500,000 Indian children attend public schools throughout the nation. Indian students who attend these schools often reside in economically deprived areas and are impacted by programs for disadvantaged students. The President's FY 2006 budget fails to fully fund the Title I low- income school grants program, critical to closing achievement gaps. A modest increase of $602.7 million for this program still leaves more than $7 billion below the authorized level for NCLB. If the FY 2006 budget is enacted, this will be the first cut in education in a decade and would completely disregard Native students' critical needs.

There is a concern that education funds for Native students do not always reach the students they are intended to serve. While the set aside for BIA schools presumably is spent on Native students, it is not clear that this is the case with grants to local education agencies. Most Native students are educated in non-tribal public schools, not BIA schools and a large share of funding does not flow directly to Native students. Often times Title VII funds, whose purpose are related to language and culture, are being used

for before school, after school and tutorial programs, essentially Title I programs. In other words, Title VII monies are being used to fund Title I programs because the Title I funding is inadequate and Indian students are not receiving the cultural components that are mandated in Title VII.

Higher Education
Within the Department of Education Budget, the Tribally Controlled Postsecondary Vocational and Technical Institutions and Strengthening Tribally Controlled Colleges and Universities requests remain level with the 2005 levels of $23.8 million, while the Strengthening Alaska Native and Native Hawaiian Institutions receives a 45% decrease from FY05 levels to $6.5 million. Tribally controlled colleges and universities receive just under $3000.00 annually per student , less than half of the amount annually provided per student to other community colleges, and do not have access to other state and local dollars, exacerbating the situation. NIEA requests a 10% increase in funding to tribally colleges based on tribal colleges relying on federal funding to meet core operational needs.

Impact Aid
The Impact Aid program directly provides resources to state public school districts with trust status lands within the boundaries of a school district for operational support. Funding that affects schools that serve Indian children who reside on or near federal land has been decreased by $3 million.

Department of Interior Budget Request
The overall Interior budget is proposed to be cut by 1%. Within that budget, there is a $108.2 million reduction in funding for the Bureau of Indian Affairs, reducing that agency's budget to $1.9 billion. BIA's budget has historically been inadequate to meet the needs of Native Americans and, consequently, our needs have multiplied. The FY 2006 BIA budget fails to fund tribes at the rate of inflation, thus exacerbating the hardships faced by Native American students.

There are only two education systems for which Federal government has direct responsibility: the Department of Defense Schools and Federally and Tribally operated schools that serve American Indian students. The federally supported Indian education system includes 48,000 students, 29 tribal colleges, universities and post- secondary schools. The federal government's responsibility for the education of Native peoples is in response to specific treaty rights; however to us, the FY 2006 budget signifies an increased negligence if its trust responsibility.

Perhaps the clearest example of unmet needs among Native American is the disparity between the amounts spent per student at BIA schools compared with public schools. BIA schools will spend about $3,000 per student, less than half the amount that public schools nationally will spend. The amount currently spent per student at BIA schools is equivalent to public school per student expenditures during the 1983-1984 school year. In 2006, BIA schools will spend an amount per student that public schools were spending over 20 years ago, while expecting our students to perform at levels of 2006.

Indian School Construction Funding
The inadequacy of Indian education facilities is well documented and well known. Education construction funds the construction of new buildings, replacement of structurally unsound ones, and repair and maintenance of existing ones. In 1997, GAO issued a report "Reported Condition and Costs to Repair Schools Funded by the Bureau of Indian Affair" that documented an inventory of repair needs for education facilities totaling $754 million. In 2004 the backlog for construction and repair was reported to have grown to $942 million.

During President Bush's first term, he promised to remove the backlog for new Indian school construction. Between 2001 and 2005, funding was appropriated for 34 replacement schools and since that time, nine of the schools have been completed and are operating with 25 in design and construction. The FY 2006 Budget proposes to cut Indian school construction by $90 million with the rationale that the focus must remain on schools already funded for construction and school construction has fallen behind. We understand and support the Committee's views that money for programs and construction must be managed appropriately and efficiently, however with school construction, our children are forced to shoulder the burden of contracting delays at the BIA and tribal levels. Completing the construction of 9 schools since 2001, while progress, is not enough.

Indian Education Facilities Improvement and Repair Funding
The continued deterioration of facilities on Indian land is not only a federal responsibility; it has become a liability of the federal government. The FY 2006 Budget Request cuts facilities improvement and repair to $128.4 million. Old and exceeding their life expectancy by decades, BIA schools require consistent increases in facilities maintenance without offsetting decreases in other programs if 48,000 Indian students are to be educated in structurally sound schools.

Of the 4,495 education buildings in the BIA inventory, half are more than 30 years old and more than 20% are older than 50 years. On average, BIA education buildings are 60 years old while 40 years old is the average age for public schools serving the general population.65% of BIA school administrators report one or more school buildings in inadequate physical condition. Although education construction has improved dramatically over the last few years, the deferred maintenance backlog is still estimated to over $500 million and increases annually by $56.5 million.

There is a known backlog of hundreds of millions of dollars in critical repair needs. The purpose of education construction is to permit BIA funded schools to provide structurally sound buildings in which Native American children can learn without leaking roofs and peeling paint. We urge not only restoration of funds to the FY 2005 level, but an increase that will realistically address the needs of Indian children who must try to learn in buildings that are not conducive to learning. It is unjust to expect our students to succeed academically if we don't provide them with a proper environment to achieve success.

Johnson O'Malley Funding
In 1995 a freeze was imposed on Johnson O'Malley funding through the Department of Interior, limiting funds to a tribe based upon its population count in 1995. The freeze prohibits additional tribes from receiving JOM funding and does not recognize increased costs due to inflation and accounting for population growth. In the FY06 proposal, JOM funds are decreased by 50%. Prior to the 50% decrease, funding for JOM was calculated to equal $85 per student based on criteria established by the tribal priority allocations system and a decade old count of the number of Native American students per state. JOM funding per student is currently 65.4 percent less than it was during the early 1970's when per student funding was $246.

NIEA urges that the Johnson O'Malley funding freeze be lifted, and other formula drive and head count based grants be analyzed to ensure tribes are receiving funding for their student populations at a level that will provide access to a high quality education for Indian students. Additionally we request that $8.8 million be restored in the JOM program.

Tribal Colleges and Universities
Under the Bureau of Indian Affairs Budget, Tribally Controlled Community Colleges a decrease of $9.76 million is proposed with zero funding for United Tribes Technical College in Bismarck, North Dakota and Crownpoint Institute of Technology in Crownpoint, NM. NIEA requests an increase of 10% of amounts appropriated in FY05 for programs affecting higher education of native students in both the DOE and BIA budgets.

The average funding level per full time students for non tribal community colleges was $7,000.00 in 1996. By comparison, the 26 tribally controlled colleges under BIA are receiving $4,447.00 per full time enrolled Indian student. Although this is the highest per student level to date, it is still only about 75% of the authorized level. The conditions under which tribal institutions must educate Native students are constrained by the lack of tax base to support them. To make up for the lack of money caused by inadequate funding, tribal college tuitions are typically so high that many Native American students cannot afford them.

Lastly, NIEA would like to mention the $2 million set aside to pilot leadership academies within the BIA budget. NIEA supports the notion of a program dedicated to building positive attitudes about learning, but we feel that the money could be best spent supporting existing programs within tribal college and university programs. NIEA recommends reinvesting the money designated for leadership academies into strengthening existing programs within tribal colleges that already provide many of the benefits to primary education students a leadership academy is expected to offer.

Department of Health and Human Services
The Head Start/Early Head Start programs are vital to Indian Country. Over the last 40 years, Indian 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 575 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 President's budget calls for "flat funding" of Head Start. This means another year of stagnant funding for Head Start programs, which according to researchers at the National Head Start Association could result in cuts in enrollment next year of at least 25,000 kids (calculated at 23,700 for Head Start and 1,700 for Early Head Start). The Indian Head Start program would experience a cut of approximately 725 kids. The only way to save these slots for kids under the Administration's proposal would be to take critical funding from the Head Start training and technical assistance budget. The President's budget will require programs to cut the number of children served, reduce services, lay off teachers and decrease the length of the school year or turn full day programs into half day programs.

The only increase in the President's budget for Head Start is the money the administration wants to use to turn over the program to nine states without requiring the states to maintain the strict national standards that Head Start programs must deliver (or are required to provide) to children and families. The transfer of the program to the states is universally opposed by the Head Start community.

In the 108th Congress, as a part of its work on the reauthorization of the Head Start Act, the Senate Health, Education, Labor, and Pensions Committee marked up a bill (S. 1940, Sect. 6(a)(1)(A), 108th Congress) that set forth a number of provisions favorable to Indian Head Start including increasing the Indian Head Start set-aside, currently set by the Department of Health and Human Services at approximately 2.9% of Head Start funding, to 4% of Head Start funding. This increase would boost funding for Indian Head Start by approximately $70 million.

NIEA urges this Committee to recommend a 5% increase in the overall Head Start budget and urge the Appropriations Committees to direct the Department of Health and Human Services to raise the Indian Head Start set-aside from 2.9% to 4% as contemplated in the Senate's Head Start Act reauthorization legislation discussed above.

NIEA also requests $5 million be designated in FY06 for the TCU Head Start partnership program, to ensure the continuation of current TCU programs and the resources necessary to fund additional TCU partnership programs.

Additional Funding Needs

Tribal Education Departments

True success can only be attained only when tribes can assume control of their children's educational future. As mandated in many treaties and as authorized in several federal statues, the education of Indian children is an important role of Indian tribes. The authorization for TED funding was retained in Title VII, Section 7135 of the No Child Left Behind Act. Despite this authorization and several other prior statutes, federal funds

have never been appropriated for Tribal Education Departments. Achieving control of education through TEDs will increase tribal accountability and responsibility for their students, and will ensure that tribes exercise their commitment to improve the education of their youngest members.

Native American Languages Act
The preservation of indigenous languages is of paramount importance to Native communities. It is estimated that only 20 indigenous languages will remain viable by the year 2050. In addition to insuring that Title VII purposes are being fulfilled, we must begin the legislative process to ensure there is some substance in the Native American Languages Act for projects that address the crisis of our language losses. NIEA urges support for additional funding that will address language needs of communities with less than a handful of elderly fluent speakers. NIEA, in partnership with other organizations, is willing to assist in the identification of needs and funding required for this process to begin.

IDEA
The Individuals with Disabilities Education Act (IDEA), is proposed to be funded at $508 million, an increase but still less than half of the full funding level proposed in 1975. NIEA urges this committee to fund the Act at original funding levels proposed 30 years ago.

Conclusion
In summary, overall Indian education funding is receiving a 10% decrease ($114 million) while overall discretionary spending in the budget has received a 2% increase. This is a direct violation of the federal trust responsibility. Every year our funding is decreased and the educational mandates that we must meet are increased.

NIEA respectfully urges this Committee to truly make Indian education a priority and to work with the Congressional appropriators and the Administration to ensure that Indian education programs are fully funded. Every year Indian educators and students are expected to achieve greater results with fewer dollars. Indian education struggles to maintain current funding levels after proposed cuts and diminishing proposals year after year. As a result no gains have been made in Indian education funding and restoration of already under funded levels are shallow victories. We encourage an open dialogue and are willing to work with you to build a more reasonable and less punitive approach that takes into account our experience in Indian education since the passage of the Indian Education Act of 1972. NIEA was instrumental at that time in assisting the Congress in conceiving ideas and recognizing the need for improvement in the effectiveness and quality of education programs from Native students.

Please join with NIEA and other organizations established to address the needs of Native students to put our children at the forefront of all priorities. We must acknowledge our children, who are our future, our triumph, and our link to the past, and their educational achievement, while working with the Bureau of Indian Affairs, the Department of Education, and tribal leaders to ensure that our children are not left behind.

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March 10, 2005

The Honorable John McCain
United States Senate
Washington, DC 20510

Dear Chairman McCain;

On behalf of the National Indian Education Association (NIEA), I submit the attached document as responses to the questions posed by the Senate Committee on Indian Affairs to NIEA on February 25, 2005.

Please feel free to contact me at (480) 727-6405 or Lillian Sparks, Executive Director at (703) 838-2870, if NIEA may be of further assistance.

Sincerely,

David Beaulieu, Ph.D.
President

1. Education Programs

Q. Does NIEA have any estimates yet on the impact that the No Child Left Behind Act may have on Tribal Schools?

Of the 122 tribally operated schools that receive funding from the Bureau of Indian Affairs, only 55 made Adequate Yearly Progress for the 03-04 school year. Less than half of tribal schools have been able to meet the standards set forth in No Child Left Behind for Language Arts, Reading and Math proficiency. From NIEA's point of view, No Child Left Behind has done very little to improve the overall proficiency of Native students in "core" subject areas and the impact has not been positive in terms of motivation or achievement for American Indian and Alaska Native students.

NIEA generally supports the goals and objectives of the No Child Left Behind Act. The NCLB Act was written in response to certain hard truths: first, that the American school system is failing; second, that despite years of reform efforts, without accountability success was unlikely; and third that we owed it to our children to seek to change the philosophy of how our schools are administered in order to achieve real results. Of particular importance to Native students are Titles I and VII. Title I of NCLB provides funding for low income area schools to meet State standards and Title VII specifically addresses programs for Indian, Native Hawaiian and Alaska Native Education.

Notwithstanding the laudable goals and objectives of the NCLB, its implementation needs to be tailored to assure that its goals are achieved. Tribal governments and Native educators have long supported the broad based principles of NCLB. In particular, we laud the intentions of sections 7101 and 7102 within Title VII, which provide for the unique educational and culturally related academic needs of Native students. These provisions formally recognize the Federal government's support for culturally based education approaches as a strategy for positively impacting the achievement of Native students.

As we have expressed in previous statements, NIEA is concerned that funding for Title I and VII programs are inadequate. There is a concern that education funds for Native students do not always fund programs they are intended to provide. Often times Title VII funds, whose purpose are related to language and culture, are being used for before school, after school and tutorial programs, essentially Title I programs. In other words, Title VII monies are being used to fund Title I programs because the Title I funding is inadequate and Indian students are not receiving the cultural components that are mandated in Title VII.

True success in Native education will come only when Native students are receiving a high quality education that not only prepares them for the demands of contemporary society, but also thoroughly grounds them in their own history, culture and language.

Until funding for Native education begins to make "adequate yearly progress" we cannot expect Native children to make perform at higher levels each school year without the funding to support them.

2. Student Transportation. A number of Tribal school boards and districts have informed that Committee that they must supplement their transportation funding with funding intended for classroom activities.

Q. Do you have an estimate of what funding would be needed just to prevent the need for these school boards to raid their classroom budgets for bus fare?

Student transportation continues to be an area that is not fully funded within education programs, and for American Indian and Alaska Native students, the lack of funding for transportation is often made worse due to rural and sometimes remote locations of tribal communities. Related to the isolation of many tribal communities is the lack of a local tax base that many urban areas are able to take advantage of to supplement transportation funding.

Within the Window Rock Unified School district located on the Navajo reservation in Arizona, the average transportation budget is $1million and the district average roundtrip is 80 miles per route, totaling over 3,000 miles a day. The 45 buses of the Window Rock Unified School District serve 1,900 students and are replaced on an average of every 15 years while the recommended life of a school bus is 5 to 7 years.

In Chinle, Arizona, the Chinle Unified School District also located on the Navajo Reservation transports 4,100 students to school on 72 buses that log a total of 1million miles a year. Over 60% of the roads that Chinle students must travel on daily are considered "unimproved roads" meaning dirt roads or "unengineered roads that do not have adequate gravel or other aggregate surface materials applied and do not have drainage ditches or shoulders." School districts most affected by unimproved roads are located on the Navajo Reservation and the Northern Plains.

In addition to the extra mileage these school districts must bear, the school buses must also drive on roads that require maintenance at levels that urban areas do not even consider. It is not uncommon for buses transporting students on the Navajo reservation to require four wheel drive, additional repairs due to twisted bus frames caused by poor roads, and frequent replacement of shock absorbers and ball joints. The difficult driving conditions associated with rural Native communities means more maintenance and more money. As a result of the extra transportation burden, funds have not been adequate to cover all of the costs for maintenance, repairs, replacement, and mileage.

While 60 % of the transportation budget for the Chinle and Window Rock school districts comes from state funding, the balance of the budget is supplemented by Impact

Aid resources. Most districts can use the local tax base to make up the difference, however, Impact Aid provides financial resources to school districts like Window Rock that do not have a local revenue base to draw funds to support educational activities. For students attending public school in Chinle, Arizona, the transportation budget totals $3.1 million and the state contributes $2.5 million to transportation. Chinle Unified School District must use $600 thousand to make up for the deficit in transportation funding. Over half a million dollars that could potentially be used for instructional purposes are instead used to insure the students are able to arrive to school and back home safely. If the cost of transportation was not so high for students living in rural areas like Window Rock and Chinle, then the Impact Aid dollars would be used to support other educational and instructional programs. Therefore, in these instances, the high cost of transporting students in rural areas is offset by dollars that otherwise would be used for classroom budgets.

For BIA schools, almost 40 percent of the BIA operated day and boarding schools spent more on transportation than they received through their transportation budgets in school year 2001-2002. For tribally operated schools, the shortfall in funding is often made up through administrative funds and interest income. For BIA operated schools, which have no investment funds or administrative funds, instructional funds are used to make up the shortfall.

Insa Wica Owayawa, a BIA school in Oglala, South Dakota often budgets for transportation out of each program to cover the cost that the Indian School Equalization Formula does not cover. Programs such as BabyFACE and Gifted and Talented are used to offset transportation costs through a line item in each program budget. Even with funds earmarked for transportation out of program budgets, the Insa Wica Owayawa school still has difficulty covering transportation costs for extra curricular and after school transportation costs. As with many schools located in rural communities, the nearest town that can handle bus repairs is two hours away and the school has to find a way to account for gas to get the busses repaired.

The data has not been collected to accurately assess what the true needs based funding is to adequately cover the costs associated with student transportation in tribal communities. One recommendation is to fully fund the Bureau of Indian Affairs for road improvement and maintenance to decreases the maintenance and repair on the school buses. NIEA is willing to work with the Senate Committee to collect the information and prepare a report that will assess the transportation needs and determines the funding necessary to meet the needs of American Indian, Alaska Native, and Native Hawaiian students.

Q. The Indian School Equalization Program also includes student transportation. How does the per mile rate for Indian students compare with the per mile rate nationwide?

Within the Indian School Equalization Program formula, transportation funding is calculated based on the funding available and does not take into account the actual transportation need. "The formula does not attempt to asses the actual cost of the school operations either at the local level or at the aggregate national level." ISEP formula provides a method of distribution of funds appropriated by Congress for all BIA schools.

While there is not an established national per mile rate, the national total route mileage is 4.2 billion miles and the national total expenditures per pupil is $13.2 billion. Even if a national per mile rate was established and was equivalent to the ISEP per mile rate, dollar for dollar, the high maintenance and repair of the buses would not reflected in the ISEP per mile rate resulting in unequal transportation funding for BIA students. BIA buses travel greater distances (an average of 465 miles a day) than the public school buses (an average of 379 miles a day) putting more wear and tear on the buses. Unlike public schools, which generally own their buses and share them throughout the district, BIA buses usually lease their buses and shoulder transportation costs individually.

The Havasupai School located in the bottom of the Grand Canyon in Arizona transportation needs include a weekly helicopter ride and daily travel by donkey. While the Havasupai school does receive supplementary funding for the extraordinary cost related to the school's geographic isolation, the additional funding does not cover the actual transportation cost for this school, nor is there a way to develop a weighted unit within the existing formula that accounts for the actual cost to the Havasupai students.

As determined by the Negotiated Rule Making Committee established by the Department of the Interior to establish proposed rules related to No Child Left Behind and BIA funded schools, there is insufficient information to establish a formula to develop an actual cost formula at this time. NIEA supports the proposed rule that would require BIA funded schools to report actual transportation expenditures to develop an actual cost formula and avoid circumstances where transportation costs take away from the instructional funding of the schools. NIEA also supports the inclusion of an isolation index an adjustment for road conditions with the transportation formula.

Federal Register, pg. 8777.
According to the National School Transportation Association, there is not an established national per mile rate. States vary on how they calculate transportation and may use per mile rates, per pupil rates , or develop another mechanism to report transportation funding. 43 states reported the total route mileage per rates and 41 states reported the total expenditures per pupil for the state. The non-reporting states are different for each totals and does not include any activity routes.
GAO Report, BIA School Funding, pg. 19.

Navajo Nation Statement
To the
U.S. Senate Committee on Indian Affairs
Regarding Funding for
Indian Public Safety Programs in the
President's FY2006 Budget Request

February 16, 2005

A. Introduction. Chairman McCain, Senator Dorgan and members of the Committee, thank you for this opportunity to provide comments on behalf of the Navajo Nation with regard to the President's proposed FY2006 Budget for funding Indian public safety programs. My name is Hope MacDonald-Lone Tree. I am an elected delegate to the Navajo Nation Council and serve as the Chairperson of the Public Safety Committee of the Navajo Nation Council. I also serve as the Navajo Nation representative to the joint Bureau of Indian Affairs/Tribal Budget Advisory Council's Workgroup on Indian Law Enforcement, a national workgroup that advocates for Indian law enforcement budgetary needs.

As described in detail below, the public safety situation in Indian Country in general, and on the Navajo Nation in particular, is dire. We are happy to see that the President's proposed budget provides for significant additional funding to begin to address this situation. However, we are concerned that the funding is still insufficient, once it trickles down to the Navajo Nation, to even begin to achieve an acceptable level of public safety on our vast reservation.

B. Public Safety – A Government's First Obligation. The first thing that a people demand of their government is that it act to ensure the public safety. A crime-free and safe environment is essential to the vitality of any community. It is also critical to the development of an economic base, including attracting investment as well as retaining skilled workers who have the option of living where they please. In his 2005 State of the Union Address, President Bush proclaimed, "Our third responsibility to future generations is to leave them an America that is safe from danger, and protected by peace. We will pass along to our children all the freedoms we enjoy -- and chief among them is freedom from fear." We agree with the President, but because of the Federal government's failure to provide adequate resources for public safety on the Navajo Reservation, too many Navajo families do not enjoy freedom from fear.

The Navajo Nation government takes its responsibility to address the public safety needs of its citizenry very seriously. Unfortunately, we face great challenges that principally arise out of the poor economic conditions on the Navajo Nation. Some of these conditions can be directly traced to actions by the Federal government in violation of its trust responsibility to the Navajo Nation. Many of them can be corrected if the Federal government fully lived up to its trust responsibility, which includes funding a basic level of public safety services within our reservation boundaries.

The Navajo Nation Public Safety Division is responsible for an area the size of West Virginia, with a resident population of approximately 200,000 and, with tourism, a transient population of hundreds of thousands of non-Indians every year. The Navajo Nation polices this area with a small force of officers (see discussion below). In addition to responding to community incidents, the Navajo police force also provides protection to major dams and power plants, as well as

hundreds of miles of interstate highways, high voltage transmission lines and gas pipelines. On 9/11, Navajo police officers moved quickly to secure as many of these high-value facilities as our limited resources would allow.

C. The High Incidence of Violent Crime in Indian Country. Although violent crime has declined throughout the United States in recent years, tragically there is no evidence of a decline in Indian Country. According to DOJ statistics, Native men and women are still more than twice as likely to be a victim of a violent crime - whether you are talking about child abuse, sexual assault, homicide, or assault - than any other racial or ethnic group. Native youth are significantly more likely to be the victims of rapes, assaults, shootings, beatings and related crimes than their counterparts. Nearly a third of all American Indian and Alaska Native women will be the victim of sexual assault in their lifetime, the highest rate of any racial or ethnic group. It takes no imagination whatsoever to understand the scarring impact of these high crime rates not only on the victims, but also on their communities. In the Native way, when one person is harmed, everyone is harmed. Adequate funding for the provision of basic public safety services is an essential part of any strategy to reduce the Indian Country crime rate and provide the same safe and secure environment for Native peoples that is enjoyed by most other Americans.

The US Attorneys Office in Flagstaff estimates that violent crime on the Navajo reservation is six times higher than the national average. Increased crime includes alcohol and drug abuse, domestic violence and child sexual abuse.

We cannot address domestic violence on Navajo because we cannot separate the abuser from the victim due to lack of detention facilities – and the abusers know that.

We cannot protect our children from sexual predators. Just in one community, there were 100 reported cases of child sexual abuse in one month. We cannot protect our families without somewhere to put the perpetrators threatening our communities.

Navajo Nation averages one officer for every 4,000 people, compared to the national average of three officers per 1,000 people.

Our officers often perform alone, without partners, and without radio communication for backup. In one incident I'd like to share, an officer responded to a call and found a man beating his wife and family. The wife did not want him attested. She knew that he would not be detained long due to the lack of facilities, and feared that he would return even more violent. Because she did not want him arrested, she attacked the officer herself and tried to get his gun. The officer managed to get away, leaving the abuser with his family.

In another sad incident, a young boy was arrested for attacking his brother. After a short hour in jail, he was let out. A week later, he was arrested for attacking his sibling. He was again released after a short time in jail. He was later arrested for stabbing his mother.

Criminal incidents of recidivism such as that one are very high on the reservation all due to the factors I have described:

1. Criminals are allowed to return to their community without incarceration.

2. We cannot incarcerate criminals without putting them at significant physical and health risk.

3. In many instances, tribal court is just a revolving door for many criminals.

4. Criminals and their victims have a complete disregard for our criminal justice system. Communities across the reservation and neighboring towns are at risk. Public safety officers are at risk.

D. The Shocking State of Indian Detention Facilities. This past September, the DOJ Office of Inspector General published its study of Indian detention facilities entitled "Neither Safe Nor Secure – An Assessment of Indian Detention Facilities" (Report No. 2004-I-0056). The Inspector General's office was shocked by what it found:

> "Early in our assessment, it became abundantly clear that some facilities we visited were egregiously unsafe, unsanitary, and a hazard to both inmates and staff alike. BIA's detention program is riddled with problems and, in our opinion, is a national disgrace with many facilities having conditions comparable to those found in third-world countries. In short, our assessment found evidence of a continuing crisis of inaction, indifference, and mismanagement throughout the BIA detention program. BIA appears to have had a laissez-faire attitude about these horrific conditions at its detention facilities. Because many of the conditions were life-threatening, the Inspector General issued an Interim Report to the Secretary in April 2004 describing our most significant findings, and to provide an opportunity for her to take immediate and appropriate action."

The Inspector General's report was only the latest in a series of reports and testimony about the decrepit condition of Indian Country detention facilities.

In the late 1950's and early 1960's, the Navajo Nation constructed six (6) detention facilities. Of our many urgent public safety needs, our highest priority is to replace or fully renovate these out-of-date and dilapidated facilities. For example, the Tuba City detention facility suspended its operation in Winter 2004 due to crumbling ceilings and walls, exposed conduits and weakening foundations. In January of this year, the facility caught fire due to an electrical short. Other facilities in Chinle and Shiprock are in roughly the same poor condition. Our remaining facilities at Kayenta, Crownpoint and Window Rock are only a few years away from joining Tuba City as facilities not fit to house animals, much less human beings. The BIA does not operate these facilities as the Navajo Nation, pursuant to the Indian Self Determination and Assistance Act, has contracted to carryout BIA law enforcement programs on the reservation. However, the same funding shortfalls that have led to problems in BIA-operated detention facilities have affected the Navajo Nation-operated detention facilities. Just to bring our detention facilities up to the national standard will require $140 million for Navajo.

E. Historic Funding Levels for Indian Country Public Safety Programs – A Quiet Crisis? In July 2003, the U.S. Commission on Civil Rights released a detailed report on Federal funding and unmet needs in Indian Country entitled "A Quiet Crisis". The Commission engaged in a comprehensive analysis of Federal funding of Native programs across all departments, concluding that the Federal government was not meeting its trust obligation to Indian tribes. Among the report's many findings, was that "... per capita federal spending on Native Americans was higher than spending for the general population between 1975 and 1980. Between 1980 and 1985, however, Native American expenditures declined while those for the general population increased, until approximate equivalency. After 1985, per capita Native American and general population spending did not increase at the same rates, resulting in a wide gap."

The Commission found that "[p]erhaps one of the most urgent needs in Indian Country is access to basic law enforcement ...." The Commission noted that the level of police coverage in Indian Country is much lower than for other areas of the United States. For example, large cities such as New York, Washington, D.C. and Detroit provide between four and seven officers per thousand residents. In contrast, the Navajo Nation only provides one officer per four thousand residents and these few officers are stretched thin covering an area many times the size of the largest urban areas in the United States. Notably, routine police patrolling is not possible at Navajo.

The Commission commented at length on the sporadic and minimal levels of funding for tribal courts, as well as on the substandard conditions at over-crowded tribal detention facilities, where funding also has been scarce. Despite some increases in funding between 1998 - 2003, the Commission noted a downward trend ever since. The Commission concluded: "Funding for criminal justice systems in Indian Country remains insufficient to meet the immediate needs of these communities, much less establish a framework for eventual self-sufficiency. The potential for even modest progress will be undone if funding cutbacks continue as they have in recent years."

F. President Bush's FY 2006 Budget – A Beginning? The President's addresses tribal public safety in two places: the Department of the Interior budget and the Department of Justice budget. His budget appears to reflect in some degree the findings of the DOJ Office of Inspector General regarding Indian detention facilities. The Interior budget contains significant increases, which, while they represent a strong beginning to addressing major public safety concerns in Indian Country, still do not get us there. The funding increases for Indian programs in the Department of Justice budget roughly keep pace with inflation, although the effect of cuts on mainstream DOJ programs from which tribes receive funds is hard to calculate and could represent a net loss of funding for tribes.

G. Department of the Interior. The President has proposed a $19.2 million increase for Indian public safety programs to 1) expand law enforcement programs in areas where violent crime is most severe and COPS grants are due to expire; 2) staff, operate, and maintain detention facilities built with Department of Justice funding which will be certified for occupancy in 2006 [this would not include, therefore, the Navajo Nation's detention facilities]; 3) outsource detention of individuals to local jurisdictions where BIA facilities do not comply with national

standards; and 4) begin a comprehensive program to improve and repair detention facilities owned by BIA. This increase is principally found in two areas of the Interior budget:

BIA Operation of Indian Programs (thousands of dollars)

	2004 Actual	2005 Enacted	2006 Request	Change from 05
Special Programs and Pooled Overhead				
Public Safety and Justice	172,495	180,063	192,265	+12,202
Construction				
Public Safety and Justice	4,983	7,381	11,777	+4,396

The President is proposing a 6.8% increase in the Public Safety and Justice Special Programs budget and a 60% increase in funding for Public Safety and Justice Construction. While these increases are welcome, their practical effect for the Navajo Nation is somewhat limited. The increase in the Public Safety and Justice Special Programs budget is designated in the budget documents for the following purposes: $4,086,000 for operational costs for new detention facilities [which, again, will not benefit the Navajo Nation which has no new detention facilities]; $3,200,000 for maintenance and operation of existing facilities; $5,000,000 to outsource detainees to local jurisdictions where BIA facilities are non-compliant; and $2,500,000 to expand law enforcement programs in areas where violent crime is most severe. According to the budget documents, this latter additional funding for law enforcement programs is to replace the expiring DOJ COPS program. However, it is not clear whether these replacement funds are sufficient to cover the loss of the DOJ COPS program which has, for the Navajo Nation, provided as many as 80 officers in recent years. Moreover, the COPS program is funded out of the DOJ budget - a different pot of money; shifting the cost of providing funding for law enforcement programs from the DOJ budget to the Interior budget almost certainly comes at the expense of other Indian programs in the Interior budget.

The increase in Public Safety construction funds of $4,396,000 is specifically intended for detention facilities improvement and repair. This amount is too modest to have a real impact on the need to renovate these high-cost facilities and appears to only apply to bureau-owned facilities, not facilities owned by a tribe like those at the Navajo Nation. There is no clear provision of funding in the President's Budget for the construction of tribally owned detention facilities.

H. Department of Justice. The President has proposed consolidating a number of Indian programs in the Justice budget into one flexible COPS/OJP Indian Grant program funded at $51.6 million. In FY 2005, for example, Indian programs were funded as follows: Tribal courts, $7.9 million; Alcohol and substance abuse, $4.9 million; Indian Prison Grants, $5 million; and Indian Alcohol & Crime Demonstration Program, $5.4 million. Based on discussions with DOJ budget personnel, historical funding for Indian programs at DOJ is as follows:

Funding for DOJ Indian Programs (millions of dollars)

2004 Actual	2005 Enacted	2006 Request	Change from 04	Change from 05
49.4	47.4	51.6	+2.2	+4.2

The increase from 2004 to 2006 is 4.5% or about 2.25% on a yearly basis. This increase barely keeps pace with inflation. The President has proposed to nearly eliminate the COPS program, as well as several other programs that tribes have accessed. It is not clear from the budget documents to what extent these cuts would impact Indian tribes but it appears possible that Tribes will experience a loss of funding that is greater than any increases provided for in the Interior budget (described above).

In FY 2003, there were eleven Indian detention facilities identified as next up for funding. The list of those facilities is set forth below.

Table 1. Unfunded Detention Facility Priority List

Rank	Tribe/Reservation
7.	Salt River Pima
8.	Colville Confederated Tribes
9.	Navajo—Crownpoint, NM
10.	Navajo-Kayenta, AZ
11.	Navajo-Shiprock, NM
12.	Mississippi Band of Chocktaw Indians
13.	Tohono O'odham
14.	Confederated Tribes of the Umatilla Indians
15.	Eight Northern Pueblo
16.	San Carlos Apache Tribe
17.	Three Affiliated Tribes of Ft. Berthold

As the Committee can see, the Navajo Nation would have been scheduled for three detention facility construction projects after FY2003, if adequate new funding had been provided. However, it does not appear that the President's proposals will ensure that the Navajo facilities will receive funding at any time in the near future.

I. Working Together the Crisis In Indian Country Public Safety Can be Addressed. In June 2004, I presented testimony before the Committee regarding Indian detention facilities and its impact on curbing criminal activity. In that statement, I remarked that:

> *Indian detention facilities construction success reaches as far as the willingness of the Bureau of Indian Affairs promotes detention facility parity in Indian country.*

Out of that historic hearing, the Committee approved the Indian Tribal Detention Facility Reform Act of 2004 (S. 2734). The Committee's continued support, both through advancing legislation that addresses public safety concerns and through advocating for adequate funding to support Indian public safety services is critical and greatly appreciated by the Navajo Nation. This Committee has shown great leadership in starting the process of seriously addressing public safety issues in Indian Country. We urge your continued support and ask that you seek the highest possible funding for public safety in Indian Country.

Thank you for this opportunity to share the concerns of the Navajo Nation. Please do not hesitate to contact me if you have any questions or if we can be of any assistance. The Navajo Nation looks forward to working closely with the Committee to address public safety concerns in Indian Country.

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Statement of H. Sally Smith, Chairman

National Indian Health Board

On the

Fiscal Year 2006 Budget for American Indian and Alaska Native Programs

February 16, 2005 – 9:30 a.m.

Senate Russell Building, Room 485

Chairman McCain, Vice-Chairman Dorgan, and distinguished members of the Senate Indian Affairs Committee, I am H. Sally Smith, Chairman of the National Indian Health Board. I am Yupik from Alaska and also represent the Bristol Bay Area Health Corporation in southwestern Alaska. On behalf of the National Indian Health Board, it is an honor and pleasure to offer my testimony on the President's Fiscal Year 2006 Budget for Indian Programs. Please accept my apologies for not being present to participate in this very important hearing. Due to impending obligations in Dillingham, Alaska, I was not able to travel to Washington, D.C. I have asked National Indian Health Board Executive Director J.T. Petherick to testify on my behalf.

The NIHB serves Federally Recognized American Indian and Alaska Native (AI/AN) Tribal governments in advocating for the improvement of health care delivery to American Indians and Alaska Natives, as well as upholding the federal government's trust responsibility to American Indian and Alaska Native Tribal governments. We strive to advance the level of health care and the adequacy of funding for health services that are operated by the Indian Health Service, programs operated directly by Tribal Governments, and other programs. Our Board Members represent each of the twelve Areas of IHS and are elected at-large by the respective Tribal Governmental Officials within their area.

Indian Country is acutely aware of the funding challenges faced by the federal government. The release of the President's budget last week confirmed the reality that federal spending for all non-defense discretionary programs will be extremely limited. American Indians and Alaska Natives have long been supportive of national security efforts and will continue to do so. However, we call upon Congress and the Administration to work with Indian Country to find innovative ways to address the funding disparities that continue to hamper Indian Country's efforts to improve the health status of American Indians and Alaska Natives. Funding for the Indian Health

Service has not adequately kept pace with population increases and inflation. While mandatory programs such as Medicaid and Medicare have accrued annual increases of 5 to 10 percent in order to keep pace with inflation, the IHS has not received these comparable increases.

No other segment of the population is more negatively impacted by health disparities than the AI/AN population and Tribal members suffer from disproportionately higher rates of chronic disease and other illnesses.

Statistics from the Centers for Disease Control and Prevention (CDC) demonstrates the health problems faced by Indian Country. American Indians and Alaska Natives had the highest prevalence of obesity, tobacco abuse, cardiovascular disease, and diabetes among both men and women. Among all minority men, AI/AN men also had the highest prevalence of self-reported hypertension and high blood cholesterol levels and among women, the second highest prevalence. The survey also showed that over 80% of American Indians and Alaska Natives surveyed had one or more adverse risk factor or chronic condition while 35% had three or more. This survey by the CDC present a snapshot of the health challenges faced by Indian Country and the need for additional resources to combat these deadly diseases and risk factors.

In reviewing these poor health indicators, the statistics could be dramatically improved if more funding was available to provide even a basic level of care and to establish programs that promote healthy lifestyles.

Indian Country continuously advocates for equitable health care funding. Health care spending for AI/AN's lags far behind spending for all other segments of society. For example, per capita expenditures for AI/AN beneficiaries receiving services in the IHS are approximately one-half of the per capita expenditures for Medicaid beneficiaries and one-third o f the per c apita expenditures f or VA beneficiaries. In f act, the f ederal government spends nearly twice as much money for a federal prisoner's health care than it does for an American Indian or Alaska Native.

Let's put this in real terms:

Everyone recalls the tragic bombing in Oklahoma City and one of the co-conspirators, Terry Nichols, will spend the rest of his life in federal prison and he will receive adequate, guaranteed health care for the rest of his life. On the other hand, a young native infant will receive about half of the health care that Mr. Nichols will receive.

Also, we all remember the horrific acts of September 11th. While nearly all of the perpetrators perished as they committed those terrorist acts, a co-conspirator by the name of Zacarias Moussaoui is currently in federal custody awaiting trial for his role in the attacks. If he were to require medical attention, he would receive it. When an American Indian or Alaska Native elder requires medical care, they may not receive it, or if they do, it will be at substandard levels.

At this point in my testimony, I would like to illustrate the challenges we face as Tribal leaders as we desperately fight to improve the status of our people.

According to the Indian Health Service, American Indians and Alaska Natives have a life expectancy six years less than the rest of the U.S population. Rates of cardiovascular disease among American Indians and Alaska Natives are twice the amount for the general public, and continue to increase, while rates for the general public are actually decreasing. American Indians die from tuberculosis at a rate 500 percent higher than other Americans, and from diabetes at a rate 390 percent higher.

Public health indicators, such as morbidity and mortality data, continue to reflect wide disparities in a number of major health and health-related conditions, such as Diabetes Mellitus, Tuberculosis, alcoholism, homicide, suicide and accidents. These disparities are largely attributable to a serious lack of appropriated funding sufficient to advance the level and quality of adequate health services for American Indians and Alaska Natives. Recent studies reveal that almost 20% fewer American Indian and Alaska Native women receive pre-natal care than all other races and they engage in significantly higher rates of negative personal health behavior, such as smoking and alcohol and illegal substance consumption during pregnancy.

The greatest travesty in looking at the deplorable health of American Indians and Alaska Natives comes in recognizing that the vast majority of illnesses and deaths from disease could be prevented if additional funding was available to provide even a basic level of care.

American Indians and Alaska Natives are naturally healthy people. However, over time, the introduction of disease, social ills, an interrupted way of life, and colonization of the Americas and subsequent federal policy have created a crisis in Indian country that has left us with staggering rates of preventable conditions.

In Alaska, the climate and topography is not conducive to fermentation, therefore alcoholic substances did not become part of the lives of Alaska Natives until such substances were introduced by non-native settlers. For American Indians, fermented substances and tobacco were used for very limited/ceremonial purposes only and were not habit forming nor abused.

Federal land policies relating to American Indians and Alaska Natives have removed or greatly reduced opportunities for traditional subsistence, which have led to the lack of jobs, educational resources, food sources, etc. In an effort to assist suffering American Indian/Alaska Natives communities with food, the United States Department of Agriculture (USDA) provides foods through its commodity program; however such foods are heavily laden with sugar, fat and other ingredients that have had a detrimental effect on the rates of diabetes and obesity in Indian Country.

From the 1600's to the early 1900's, we were almost wiped out of existence by infectious disease, but through the hard work of the federal government and Tribal

governments, dramatic steps were taken to better manage the incidence and effects of small pox, tuberculosis, and others. Now, the largest threat to our existence is chronic disease; among them are heart disease, cancer, and diabetes, as well as behavioral health issues of depression and alcohol and substance abuse. Additionally, we are losing our youth at alarming rates due to suicide and unintentional injuries.

We want to find solutions to fix the health problems we face in Indian Country. It will take an investment in promoting the health and wellness of American Indians and Alaska Natives and in the Indian health care system to accomplish this goal.

The President's FY 2006 IHS Budget Request

The IHS FY 2006 requested budget authority is $3.048 billion, an increase of $63 million over the FY 2005 enacted amount for the Indian Health Service. This continual under-funding of the Indian Health Service is felt in our communities through diminished health and well-being, as well as higher mortality rates than the rest of the population.

For the past eight years, the Indian Health Service has conducted budget consultation sessions and Tribal leaders have developed a "Needs-Based Budget" for Indian Health Service funding. The needs-based budget is developed through a careful and deliberate process to ensure that it is reflective of the health needs of Indian Country.

During the development of the needs-based budget, the Office of Management and Budget (OMB) indicated the medical inflation rate will be 1.7% and the non-medical inflation rate will be 3.5% in FY 2006. The inflation estimate that was calculated using the OMB-allowed medical inflation rates is insufficient to address the actual inflationary costs experienced by the Indian Health Service and Tribally operated health programs. The resources needed to address the true rate of medical inflation for AI/AN are vital for programs dependent on contract health services (CHS). The CHS program is most vulnerable to inflation pressures, as well as pharmaceutical costs. Additional funding is needed just to maintain current services.

The "Needs-Based Budget" developed for FY 2006 documents the IHS health care funding needs at $19.7 billion. The FY 2006 budget request amount of $3.048 billion falls well short of the level of funding that would permit American Indian and Alaska Native programs to achieve health and health system parity with the majority of other Americans.

As we have carefully reviewed the President's FY 2006 IHS Budget Request, the intent of the Administration and the Indian Health Service is clear and admirable. In light of the difficult fiscal situation the federal government is facing, the Administration and IHS worked diligently to craft a budget request that reflects the priorities set forth by American Indian and Alaska Native Tribal governments during the FY 2006 Budget Consultation sessions. Tribal leadership identified several priorities and the top of the list indicated the need for additional funding to address inflation and population increases. While we commend such efforts and realize the Indian Health Service fared

quite well compared to other agencies, the Indian Health Service and Tribal governments providing health care services cannot begin to provide adequate health care with a 2.1% funding increase, especially considering inflation and, according to information provided by the National Center for Health Statistics, birth-death records indicating that the American Indian and Alaska Native population is increasing at 1.7% per year. The 1.7% population increase translates to approximately 70,000 new patients entering into the Indian Health care system annually.

Several provisions within the request would seriously affect the agency's ability to carry out its responsibilities pertaining to the health and welfare of American Indians and Alaska Natives. I will briefly discuss several of these provisions, but at this point it is imperative that Congress consider the dire need to exempt the Indian Health Service from any and all rescissions to appropriated funds. In FY 2005, the Indian Health Service Appropriated amount was reduced twice, once by over $17 million, and a second reduction in excess of $24 million. Given that the Indian Health Service, along with the Department of Defense and the Veterans Health Administration, are direct health care providers and should be exempt from rescissions, we ask the Committee members, as advocates for Indian Country, support exempted IHS from any rescissions.

Health Facility Construction: The FY 2006 budget request includes a staggering decrease in excess of $85 million for health care facilities construction (HCFC), leaving only $3.32 million in the entire health care facilities budget. The remaining funds will be used for the construction of staff quarters at Fort Belknap, Montana. While the facilities at Fort Belknap are sorely needed, the rest of Indian country has equally critical facility construction needs.

This section of the budget includes construction of new facilities, such as inpatient hospitals, outpatient hospitals, staff quarters for health professionals, regional treatment centers and joint venture construction programs. It also includes the small ambulatory program and the construction of dental facilities. These elements constitute the entire physical infrastructure of the health care delivery system in American Indian and Alaska Native communities. The proposal reflects a desire to institute a "one year pause in new health care facilities construction starts in order to focus resources on fully staffing facilities that have been constructed and are opening in Fiscal Years 05 and 06." While the goal of achieving full staffing in American Indian and Alaska Native clinics and hospitals is commendable, and one we support, disease processes and illnesses do not take a "pause." Funding to provide adequate facilities to address disease and illness for Native Peoples cannot afford to take a "pause." Stalling health care construction for one year, if it indeed is only for one year, will achieve a setback from which it will take Indian Country a decade to recover. Additionally, the Program Assessment Rating Tool (PART) for FY 2006 measured the IHS HCFC program as "effective," which is an indication that the HCFC program is an effective use of federal resources. The Indian Health Service has taken many steps to operate in an efficient manner and cutting programs that utilize federal dollars responsibly serves as a disincentive.

We request that Congress support the physical health care delivery system in American Indian and Alaska Native communities by restoring this funding level at the 2004 level of $94,544,600.

Contract Health Service Funding: The President's Budget Request includes $525 million, which provides an additional $26.9 million over last year's budget request for Contract Health Services. While we are very thankful for any increase, the proposed level of funding remains so limited that only life-threatening conditions are normally funded. In most other cases, failure to receive treatment from providers outside the IHS and Tribal health system forces people in Indian country to experience a quality of life that is far below the level normally enjoyed by non-Indian Americans.

The documented need for the Contract Health Service Program in Indian Country exceeds $1 billion: this budget would put us a little more than half way to the goal. At present, less than one-half of the CHS need is being met, leaving too many Indian people without access to necessary medical services. We recommend an increase of at least $175 million, which would raise American Indian and Alaska Native tribes to approximately 60 percent of need.

Sanitation Construction: The President's budget includes a $1,752,000 increase, with a total request of $93,519,000 for sanitation construction. This increase represents a less than one percent increase over the FY 2005 enacted appropriations. In the President's previous budget, the increase to this program was just under 10 percent. NIHB testified before this committee last year that this increase was appreciated and demonstrated the Administration's commitment to providing safe water and waste disposal to an estimated 22,000 homes. While we understand that the federal government is facing some very real and tough funding decisions, only about 1 percent of US homes lack safe water in the home, while nearly 12 percent (or approximately 36,000) of all American Indian and Alaska Native homes lack safe drinking water in the home. Proper sanitation plays a considerable role in the reduction of infant mortality and deaths from gastrointestinal disease such as acute diarrhea and infections, in Indian Country.

Lack of proper sanitation facilities was a top concern, internationally, for victims of the Tsunami disaster, and with good reason. We ask Congress to pay attention to this need and increase funding for sanitation construction to $100,000,000. This figure represents less than a ten percent increase over FY05 levels and is badly needed in Indian Country.

Contract Support Costs: The President's FY 2006 Budget Request includes a $5 million increase in contract support costs. We understand that these are difficult budgetary times and that this increase represents successful efforts on behalf of the Administration and Tribal Leadership to increase funds for contract support costs. In that spirit of appreciation, it also must be stated that the demonstrated need for contract support costs is in excess of $100,000,000 over appropriated levels. The President's request of a $5 million increase is the first step and we request that Congress continue to seek

opportunities to advance this effort and provide the necessary resources to Tribal governments operating their own health care systems

This funding is critical to supporting tribal efforts to develop the administrative infrastructure gravely necessary to successfully operate IHS programs. An increase in Contract Support Costs is necessary because as Tribal governments continue to assume control of new programs, services, functions, and activities under Self-Determination and Self-Governance, additional funding is needed. Tribal programs have clearly increased the quality and level of services in their health systems fairly significantly over direct service programs. Failure to adequately fund Contract Support Costs is defeating the very programs that appear to be helping improve health conditions for American Indians and Alaska Natives.

We strongly urge reconsideration of this line item in the proposed budget. As Tribes increasingly turn to new Self Determination contracts or Self Governance compacts or as they expand the services they have contracted or compacted, funding necessary to adequately support these is very likely to exceed the proposed budgeted amount. We ask you to fund contract support costs at a level that is adequate to meet the needs of the Tribes and to further the important Trust responsibility charged to the federal government. We recommend an additional $100 million to meet the shortfall for current contracting and compacting, and to allow for funding in anticipation of the 20-25 additional Tribal programs anticipated.

Tribal Management/Self-Governance Funding: According to the President's FY 2006 Budget Request, the number of tribally managed IHS programs continues to increase, both in dollar terms and as a percentage of the whole IHS budget. Tribal governments will control an estimated $1.8 billion of IHS programs in FY 2006, representing 56 percent of the IHS's total budget request. Because of this, it is critical that funding for self-governance be provided in a manner reflective of this. Therefore, we feel it is necessary to provide funding over and above the proposed amount of $8 million. The FY 2003 budget cut the office of Self-Governance funding by 50% without any notice to tribes. The enacted budget for FY 2004 and the proposed FY 2005 budget both fail to increase the funding beyond $8 million enacted from FY 2003. For Tribal governments to continue managing IHS programs and other Direct Service Tribes to consider compacting, we ask that funding for self-governance be increased to $20 million.

Special Diabetes Program for Indians (SDPI): The Special Diabetes Program for Indians is growing into a success story. It's developing a community spirit and Tribal governments and communities are working together in a proactive approach to combat diabetes. The recently-submitted report to Congress shares many of the advancements Indian Country has made in the areas of: Increased prevention activities; Increased treatment; Integrated prevention and treatment activities in culturally appropriate methods and by a multidisciplinary approach; Improved Data; Information Sharing and Best Practices; Utilizing Tribal Consultation; and Developing partnerships with the non-Indian community to combat diabetes. Congress and IHS worked with Tribal Leaders to make this program possible and we stand committed to seeing it made a permanent

fixture in American Indian and Alaska Native Communities. The SDPI is a program that needs to be replicated in Indian Country to combat other chronic disease and preventable maladies.

A recent survey by the Centers for Disease Control (CDC) demonstrates the health problems faced by American Indians and Alaska Natives. The CDC contracted with the National Opinion Research Center at University of Chicago to conduct the REACH 2010 Risk Factor Survey. The survey was conducted during June 2001--August 2002 in 21 minority communities in the United States, two of which included 1,791 American Indians who participated in the survey. American Indians had the highest prevalence of obesity, current smoking, cardiovascular disease, and diabetes among both men and women in these four groups. Among all minority men, American Indians also had the highest p revalence of s elf-reported h ypertension a nd high bl ood c holesterol l evels. Among women, American Indians had the second highest prevalence. The survey also showed that over 80% of Americans Indians surveyed had one or more adverse risk factor or chronic condition while 35% had three or more. This survey by the CDC represents the health challenges faced by Indian Country and the need for additional resources to combat these deadly diseases and risk factors.

As the CDC survey demonstrates, the prevalence of chronic diseases such as cardiovascular disease in Indian Country is increasing and requires immediate attention. Due to a lack of adequate preventative care and education for American Indians and Alaska Natives, heart disease has become the leading cause of death among American Indians and Alaska Natives according to the CDC's 1997 report on cardiovascular disease risk factors. The prevalence of risk factors such as hypertension, current cigarette smoking, high cholesterol, obesity, and diabetes among American Indians and Alaska Natives needs to be addressed. As such, the Indian Health Service and Tribal health centers must receive additional resources to aggressively treat the risk factors and improve the overall health and well being of American Indian and Alaska Native communities.

Cardiovascular disease is also the leading cause of death among American women according to the American Heart Association. The prevalence of this disease among American Indian and Alaska Native women will continue to grow if steps are not taken to prevent hypertension, obesity, high cholesterol, poor diet and lack of exercise, which all combine to put a woman at risk for a heart attack or other coronary event. In 2001, the CDC addressed this problem through its WISEWOMAN demonstration projects. WISEWOMAN stands for Well-Integrated Screening and Evaluation for Women Across the Nation. The WISEWOMAN program provided low-income, under insured, and uninsured women aged 40-64 years in 12 different states with chronic disease risk factor screening, lifestyle intervention, and referral services in an effort to prevent cardiovascular disease. In southern Alaska and South Dakota, the program focused on screening for American Indian and Alaska Native women. This type of project is still needed on a permanent basis in the Indian Health Service and Tribal health clinics.

Along with cardiovascular disease, diabetes, obesity and cancer increasingly affects American Indian and Alaska Native communities. According to a CDC report in 1998, lung, colon, prostate and breast cancers constituted 53% of all cancer-related deaths in the United States. The report compared cancer-related deaths by gender and race/ethnicity from 1990-1998. While generally concluding that death rates from these cancers declined among men and women in the United States, lung cancer in women and lung, colorectal, and breast cancer in American Indians and Alaska Natives. Among men, death rates from lung and bronchus cancer decreased 1% to 2% per year for each race/ethnicity except American Indians and Alaska Natives. Among American Indians and Alaska Natives, death rates increased 1.7% per year among men and 2.9% per year among women. The report concluded that increases in death rates for American Indians and Alaska Natives most likely reflected increases in smoking rates. American Indians and Alaska Natives have among the highest smoking rates in the United States according to a report issued by the Centers for Disease Control on January 30, 2004. Considering the prevalence of numerous risk factors for chronic diseases and the under funding of our health systems for preventative care, we ask Members of Congress to provide critical preventative health resources to help build up our communities. We cannot build a strong future for the coming generations if we continue to lose our population to these devastating illnesses.

In response to the dire need for increased efforts for health promotion and disease prevention activities throughout Indian Country, the National Indian Health Board recently approved Resolution 2005-01 which supports increased funding in the amount of $200 million annually for the Indian Health Service: this funding would constitute the WIN! (Well Indian Nations) Initiative. The resolution directs 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.

Homeland Security Funding in Indian Country

The President's FY 2006 budget request for the Department of Health and Human Services (DHHS) reflects the priorities of the United States with regard to health and safety concerns relating to Homeland Security. It reflects the Administration's commitment to anticipating future threats to America's public health care, health infrastructure and human services systems. It is important to note that, along with the Department of Defense and Veteran's Affairs health systems, the Indian Health Service occupies a u nique p osition w ithin t he F ederal g overnment as a dir ect health c are provider.

Therefore, we are requesting that Congress add funding during FY 2006 to help the Indian Health Service and Tribal governments prepare for and respond to potential terrorist attacks, including increases for Data Systems Improvements.

Conclusion

In closing, the Indian Health Service sets the standard for convening and utilizing Tribal consultation in the development of Budget recommendations. Additionally, with the recent signing of the Secretary of Health and Human Services Tribal Consultation Policy, we look forward to other operating divisions doing the same.

On behalf of the National Indian Health Board, I would like to thank the Committee for its consideration of our testimony and for your interest in the improvement of the health of American Indian and Alaska Native people. If we are to reduce the terrible disparities between the health of American Indians and Alaska Natives compared to other Americans, we need to properly fund the Indian Health Service and we urge the Senate to significantly increase the IHS funding level during this fiscal year. IHS and the Tribes are continuing to work diligently to develop health systems of sufficient quality and with levels of services that our people desperately need. We look forward to working with you on this budget.

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