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Testimony of the National Congress of American Indians for the Hearing on American Indian/Alaska Native Programs

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NCAI HEADQUARTERS
1516 P Street, N.W.
Washington, DC 20005
202.466.7767
202.466.7797 fax
www.ncai.org

Introduction

On behalf of the National Congress of American Indians (NCAI), thank you for holding this important hearing on American Indian and Alaska Native programs. NCAI is the oldest and largest American Indian organization in the United States. Tribal leaders created NCAI in 1944 as a response to termination and assimilation policies that threatened the existence of American Indian and Alaska Native tribes. Since then, NCAI has fought to preserve the treaty rights and sovereign status of tribal governments, while also ensuring that Native people may fully participate in the political system. As the most representative organization of American Indian tribes, NCAI serves the broad interests of tribal governments across the nation. As Congress debates elements of various budget proposals for FY 2014 and beyond, leaders of tribal nations call on decision-makers to ensure that the promises made to Indian Country are honored in the federal budget.

Sequester

Although we are submitting testimony on FY 2014, we must comment on the FY 2013 sequestration of discretionary programs. NCAI passed a unanimous resolution that trust and treaty obligations to tribes should not be subject to sequestration. Although the United States, businesses, and workers hoped that an economic recovery was finally taking off, the nation will begin absorbing automatic spending cuts known as sequestration in the next few months, creating an economic drag. The sequester cuts pose particular hardship for Indian Country and the surrounding communities who rely on tribes as employers, where the recession struck especially hard.¹ Tribal leaders urge Congress to protect the federal funding that fulfills the trust responsibility to tribes in the face of difficult choices. The sequester reductions to tribal programs undermine Indian treaty rights and obligations – treaties which were ratified under the Constitution and considered the “supreme law of the land.” At its most basic level, the economic success of the United States is built upon the land and natural resources that originally belonged to tribal nations. In exchange for land, the United States agreed to protect tribal treaty rights, lands, and resources, including provision of certain services for American Indian and Alaska Native tribes and villages, which is known as the federal Indian trust responsibility. Indiscriminate cuts sacrifice not only the trust obligations, but it thwarts tribes’ ability to promote economic growth or plan for the future of Native children and coming generations.

¹ Economic Policy Institute, *Different race, Different recession: American Indian Unemployment in 2010*, November 18, 2010

The 2013 sequester and potential reductions due to the Budget Control Act caps will hurt law enforcement, education, health care and other tribal services, which have been historically underfunded and have failed to meet the needs of tribal citizens.

Federal Cuts Disproportionately Impact Indian Country

In their role as governments, tribes deliver all the range of services that other governments provide. Tribal governments maintain the power to determine their own governance structures and enforce laws through police departments and tribal courts. Tribes provide social programs, first-responder services, education, workforce development, and natural resource management. They also build and maintain a variety of infrastructure, including roads, bridges, housing, and public buildings. Yet, tribes need adequate resources to exercise their self-determination and serve as effective governments. Government funds provide much-needed investments in tribal physical, human, and environmental capital.

For many tribes, a majority of tribal governmental services is financed by federal sources. Tribes lack the tax base and lack parity in tax authority to raise revenue to deliver services. If federal funding is reduced sharply for state and local governments, they may choose between increasing their own taxes and spending for basic services or allowing their services and programs to take the financial hit. On the other hand, many tribes have limited ability to raise substantial new revenue, especially not rapidly enough to cover the reduction in services from the across the board reductions of the FY 2013 sequestration. States and localities finance their own areas of spending and state and local taxes provide the majority of the funding for most of their services. The Census Bureau shows that half of state and local government revenue is from their own taxes, while a quarter is federal.²

On the other hand, up to 60 and 80 percent of the revenue for tribal governmental services comes from federal sources. Although some tribes have implemented strategies that enhance economic development for their communities to supplement federal sources, that does not supplant the federal government's duty to fulfill its trust responsibility.

With those tribal revenue constraints provided for context, this testimony will address recommendations for some of the critical tribal programs in the Interior Subcommittee's jurisdiction. NCAI has previously submitted FY 2014 testimony on funding for the Indian Health Service and the Bureau of Indian Education. NCAI also supports the recommendations of the National Indian Health Board, National Indian Child Welfare Association, and National Indian Education Association.

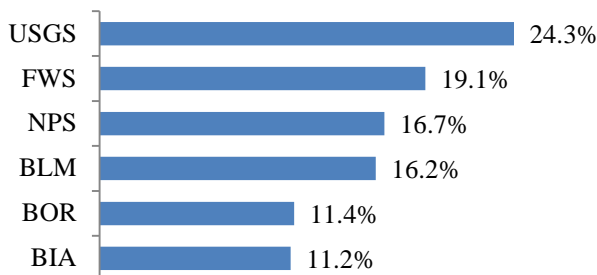
Bureau of Indian Affairs in Context

NCAI appreciates the work of this subcommittee to provide support for tribal programs over recent years, especially for the Indian Health Service and law enforcement. However, we must mention that comparing budget increases for the six largest Interior agencies between FY2004 enacted to FY2014 Presidents' Request shows that BIA has received the smallest percentage increase.

² U.S. Census Bureau, *State and Local Government Finances Summary: 2010*, September 2012

Budget Increases for the 6 Largest Interior Agencies FY2004 to FY2014

	FY 2004 enacted	FY 2014 Request	FY2004- 2014 % Increase
USGS	\$938.8	\$1,167.0	24.3%
FWS	\$1,303.4	\$1,552.0	19.1%
NPS	\$2,258.6	\$2,636.0	16.7%
BLM	\$999.8	\$1,162.0	16.2%
BOR	\$942.9	\$1,050.0	11.4%
BIA	\$2,305.8	\$2,563.0	11.2%



The increase for BIA from the FY 2004 enacted level to the FY2014 President's requested level is about 11percent, the smallest percent increase compared to the six largest Interior agencies.

Changes Proposed to Contract Support Costs

NCAI opposes the Administration's unilateral proposal, in its FY 2014 budget request, to fundamentally alter the nature of tribal self-governance by implementing individual statutory tribal caps on the payment of contract support costs. Contract support cost funding is essential to the operation of contracted federal programs administered under federally issued indirect cost rate agreements. No change of such a fundamental character should be implemented until there has been a thorough consultation and study process jointly undertaken by the Indian Health Service (IHS), the Bureau of Indian Affairs (BIA), and tribal leaders, informed by a joint technical working group and coordinated through NCAI. Such a consultation process must be scheduled to permit opportunity for full tribal participation. While NCAI believes that overall statutory caps on contract support costs should be eliminated, at the very least Congress should maintain in FY 2014 and FY 2015 the status quo statutory language enacted in FY 2013 so that tribally-developed changes in contract support cost funding mechanisms, if any, can be included in the FY 2016 Budget.

Specific Recommendations for Indian Affairs

Replacement Schools: The FY 2014 President's budget does not include funding for Bureau of Indian Education (BIE) replacement school or replacement facility construction. NCAI urges Congress to restore funding for this program. The FY 2013 Continuing Resolution increased Department of Defense school replacement by \$30 million above FY 2012 levels while zeroing out funds for new BIE school construction. Indian Country urges Congress to ensure that dilapidated BIE schools also receive much-needed attention. There must be parity between the two federally-funded school systems. BIE schools are in overwhelmingly horrific conditions across the United States. Rodent infestations, buckling walls, water leaks near electrical outlets, and exposed asbestos, lead paint, and mold are abundant in facilities that serve Native students. Providing safe and secure schools for Native students is a matter of basic equity and a fundamental element of the federal government's trust responsibility to tribes.

The President's budget eliminates the ***Housing Improvement Program*** (HIP) budget. NCAI opposes HIP's elimination because the program serves the neediest of the needy in Indian Country and losing the program altogether would be difficult for tribes to absorb or cover in other ways. Language to provide a no-cost economic development and jobs creation solution for restoring land to tribal governments impacted by the ***Carciere*** Supreme Court decision is included in the Department of the Interior general provisions of the President's budget. NCAI urges Congress to retain this language. The budget includes increases of \$32.4 million for ***trust natural resources*** management. NCAI supports these much needed increases to Rights Protection Implementation, Forestry, Fish-Wildlife-Parks, and Tribal Management and Development. The President's budget includes a \$19 million increase for ***BIA public safety and justice***. NCAI supports these increases.

NCAI also supports the recommendations of the Tribal Caucus of the Tribal Interior Budget Council, which covers more details of the BIA budget.

Environmental Protection Agency

Tribal General Assistance Program (GAP): The President requested an increase of approximately \$5 million over FY 2012 appropriations to \$72.6 million for the Tribal General Assistance Program. Program capacity building is a top environmental priority identified by tribes as part of the EPA National Tribal Operations Committee National Tribal Caucus. GAP is unique among federal programs in that it provides a foundation which tribes can leverage to support other greatly-needed programs, such as planning for natural resource management, energy efficiency activities, and small scale renewable energy projects. However, GAP funding has not kept pace with the growth of tribal environmental programs over the years, forcing tribes to perform the increased duties of maturing programs with fewer funds. Furthermore, the average cost for tribes to sustain a basic environmental program was set at \$110,000 per tribe in 1999 and has not been adjusted for inflation since then. Tribal demand for program implementation across various media includes a very pressing need to establish climate change adaptation plans. A \$175,000 per tribe distribution (totaling approximately \$98 million) reflects an equitable adjustment. Tribes request \$96 million for GAP funding in FY 2014. Expanded justification on tribal EPA programs can be found in the NCAI FY 2014 Tribal Budget Request.³

Conclusion

Thank you for your consideration of this testimony and NCAI looks forward to working with this Subcommittee to ensure the agreements made between our forefathers are honored in the federal budget.

³ National Congress of American Indians. (January 2013). Fiscal year 2014 Indian Country budget request: Supporting tribal economic security and prosperity. Washington, DC: Author.