

**U.S. House of Representatives
Committee on Appropriations
Subcommittee on Interior, Environment, and Related Agencies**

April 17, 2013

**Testimony of the Tribal Caucus of the Tribal Interior Budget Council for the Hearing on
American Indian/Alaska Native Programs**

As Tribal Co-Chair of the Tribal Caucus of the Tribal Interior Budget Council (TIBC), I'd like to thank you for holding this important hearing on American Indian and Alaska Native programs. The Tribal Caucus passed a motion that the Tribal Co-Chair would share recommendations of the tribal representatives on the Bureau of Indian Affairs' (BIA) budget with this Subcommittee.

Background

The Tribal Interior Budget Council (previously the Bureau of Indian Affairs/Tribal Budget Advisory Council) was established in 1999 to facilitate tribal government participation in the planning of the BIA budget and includes two tribal representatives from each of the 12 BIA regions. The mission of the TIBC is: to provide an advisory government-to-government forum and process for Tribes and the Department to develop budgets that allow for the fulfillment of tribes' self-determination, self-governance, sovereignty, and treaty rights, as well as sufficient levels of funding to address the needs of Tribes and their tribal citizens. 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.

TIBC Resolution on Federal Trust Responsibility

On December 7, 2011, the TIBC Tribal Representatives passed a unanimous resolution "Requesting the Administration to request full funding for all American Indian/Alaska Native federal programs in budget for FY 2013, including those administered by the Department of the Interior; requesting Administration and Congress to amend the Budget Control Act of 2011 to exempt all American Indian/Alaska Native federal funding programs from mandatory budget cuts in FY 2013 and beyond." Programs benefiting American Indians and Alaska Natives have not been exempted from the cuts required under the Budget Control Act of 2011, despite the pleas of American Indians and Alaska Natives, even though the list of programs exempt from mandatory budget cuts includes most programs that provide direct human services to Americans, including Social Security, Medicare and many other direct service programs.

Congress and the Administration are well aware of the trust responsibilities of the United States to American Indians and Alaska Natives that arise as a result of the unique relationship of tribes with the United States, as stated in many treaties, other agreements, federal statutes, Supreme Court decisions, and as a result of appropriation of the lands and resources of American Indians and Alaska Natives by the United States over the previous centuries. The Snyder Act, 25 U.S.C. Section 13, and many other sections of law codify these obligations to American Indians, including the Indian Reorganization Act of 1934, 25 U.S.C. Sections 450 et seq. and the Self-Determination and Education Assistance Act of 1975, and authorize Congress to appropriate

funds to fulfill the fundamental trust responsibilities of the United States. These certain trust obligations of the United States to the Tribal Nations within its boundaries include, but are not limited to, providing health care, education, housing, social welfare, law and order, transportation, responsibility for trust lands, and many other services.

American Indians and Alaska Natives, and the Tribal Nations of whom they are citizens, are well prepared to take on additional responsibilities for the management of their resources, but need the United States to seek to fulfill its trust responsibilities in order to do so, a goal of which is impeded greatly by the Budget Control Act of 2011 and the draconian cuts to programs benefitting American Indians and Alaska Natives contained in that Act.

FY 2014 Budget

The President's FY 2014 proposal would use \$1.76 trillion in deficit reduction over the next decade to replace the sequester starting in FY 2014, including \$583 billion from new tax revenue and about \$1 trillion in alternative spending cuts, with \$400 billion in cuts to Medicare. The sequester should be replaced, since it threatens the trust responsibility and reduces portions of the budget that are not major contributors to the deficit.

Indian Affairs

Tribal representatives on the TIBC have presented testimony on the importance of increases for trust natural resources, public safety and justice, contract support costs, Tribal Priority Allocations, economic development, and education programs in the BIA, among others.

Natural Resources and Trust Lands: Federal investment in tribal natural resources management helps to sustain tribal land and people, grow economies, and support continued prosperity. Many of the BIA Trust natural resources programs discussed in this section experienced substantial cuts over the past decade. Further reductions in FY 2013 under the Budget Control Act of 2011 would eliminate jobs, stymie economic activity at a critical time for tribes, and curtail combined tribal, federal, state and community collaboration as well as the valuable perspective in natural resource management that tribes contribute to the national natural resources and the economy. The most supportive role for the federal government is as a resource-provider and enabler—facilitating independent decision-making and true self-governance for tribal nations. When tribes are free to make decisions, they have the opportunity to align policy and planning with established tribal priorities.

One of the largest increases in the proposed FY 2014 BIA budget is for sustainable tribal stewardship and development of natural resources. The budget includes increases of \$32.4 million for this initiative. The funding is proposed for resource management and decision-making in the areas of energy and minerals, climate, oceans, water, rights protection, endangered and invasive species, resource protection enforcement, and post-graduate fellowship and training opportunities in science-related fields. \$2.5 million of this funding will focus on projects engaging youth in the natural sciences and will establish an office to coordinate youth programs across Indian Affairs. Programmatic changes in Trust Natural Resources include increases of \$9.8 million to cooperative landscape conservation, \$7.7 million to Rights Protection Implementation, \$5.1 million to Forestry, \$3 million to Fish, Wildlife and Parks, and \$2 million to Tribal Management and Development. Below are recommended levels for various natural

resources programs at BIA. Expanded tribal justification on each program is available in the FY 2014 Tribal Budget Request.¹

Program	FY 2014 Request
BIA Rights Protection Implementation	\$49,500,000
BIA Water Management, Planning, and Pre-Development Program	\$8,298,000
BIA Water Rights Negotiation/Litigation program	\$10,923,000
BIA Endangered Species Program	\$3,000,000
BIA Tribal Management and Development Programs	\$20,000,000
BIA Wildlife and Parks TPA - Fish Hatchery Operations	\$3,000,000
BIA Wildlife and Parks TPA - Fish Hatchery Maintenance	\$6,000,000
BIA Wildlife and Parks TPA - Wildlife and Parks TPA	\$10,000,000
BIA Natural Resources TPA	\$10,000,000
BIA Forestry TPA	\$31,200,000
BIA Forestry Projects	\$23,600,000
BIA Invasive Species Program	\$5,000,000

Public Safety and Justice: The problems that continue to plague public safety providers on tribal lands are the result of decades of underfunding for tribal criminal justice systems; a uniquely complex jurisdictional scheme; and a centuries-old failure by the federal government to fulfill its public safety obligations on American Indian and Alaska Native lands. For many years, the TIBC tribal leaders have expressed the need for more federal resources for public safety and justice in Indian Country. At each turn, they emphasized that the current lack of resources for law enforcement on tribal lands poses a direct threat to Native and non-Native citizens alike, and to the future of all tribal nations. These concerns culminated in the passage of the extremely comprehensive Tribal Law & Order Act in 2010. The President's budget includes a \$19 million increase for BIA public safety and justice. These increases will provide \$5.5 million to hire additional tribal and bureau law enforcement staff and \$13.4 million to staff recently constructed tribally-operated detention centers. An increase of \$1 million is for tribal courts, which are expected to see an increase in case loads. \$3 million is to meet the needs of tribal communities with elevated levels of domestic violence. TIBC tribal leaders have repeatedly called for increases to law enforcement, courts, and staffing for detention centers and support increases to these programs in FY 2014.

Human Services: Major changes in this section include the elimination of the Housing Improvement Program budget. The Budget in Brief states, "The \$650.0 million Housing and Urban Development Native American Housing Assistance and Self-Determination Act program serves the same population as HIP. Tribes who receive HUD funding are not precluded from using that funding to provide assistance to HIP applicants." Tribal leaders on the Tribal Interior Budget Council oppose 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.

¹ National Congress of American Indians. (January 2013). Fiscal year 2014 Indian Country budget request: Supporting tribal economic security and prosperity. Washington, DC: Author.

Education: Tribal leaders of the TIBC have called for increased investment in Indian education. Research repeatedly demonstrates that investments in education contribute to economic growth, while also expanding opportunities for individual advancement.² For example, a 2007 Brookings Institution study revealed that investments in education and training programs provide a payoff between five and 15 percent per year compared to their upfront costs.³ Likewise, cutting statewide public K-12 expenditures by just one percent would reduce a state's employment rates by 0.7 percent in the short run and by 1.4 percent in the long run.⁴ For Native nations, the stakes of strengthening education are just as high, if not higher. Education not only provides tribal economies with a more highly-skilled workforce, but also directly spurs economic development and job creation.

Changes for BIE include an increase of \$2 million for Tribal Grant Support Costs, a \$15 million increase to fund a pilot program based on the Department of Education turnaround schools model and concepts. Grants will be awarded to schools that demonstrate the strongest commitment for using the funds to substantially raise the achievement of students. The increases are offset by a \$16.5 million reduction in Indian School Equalization Program funds which are distributed by formula, usually based on the number of students, to BIE-funded schools for operations. The 2014 budget includes increases totaling \$6.2 million for BIE-funded post-secondary programs. The budget provides an additional \$2.5 million to meet the needs of growing enrollment at BIE-funded tribal colleges. TIBC tribal representatives also recommend increases for Scholarships and the Johnson O'Malley program. The FY 2014 President's budget does not include funding for Bureau of Indian Education (BIE) replacement school or replacement facility construction. TIBC urges Congress to restore funding for this program.

Changes Proposed to Contract Support Costs: The Administration unilaterally proposes, 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. Such a consultation process must be scheduled to permit opportunity for full tribal participation. Overall statutory caps on contract support costs should be eliminated, and 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.

² Goldin, C. & Katz, L. F. (2008). *The race between education and technology*. Cambridge, MA: Harvard University Press.

³ Bendor, J., Bordoff, J., & Furman, J. (2007). *An education strategy to promote opportunity, prosperity, and growth*. Washington, DC: The Brookings Institution

⁴ Wolfe, B. L. & Haveman, R. H. (2002, June). Social and nonmarket benefits from education in an advanced economy. Conference Series; [Proceedings], Federal Reserve Bank of Boston: 97-142.