



NATIONAL CONGRESS OF AMERICAN INDIANS

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

Native Public Witness Hearing
President Brian Cladoosby, National Congress of American Indians
March 9, 2016

EXECUTIVE COMMITTEE

PRESIDENT
Brian Cladoosby
Swinomish Tribe

FIRST VICE-PRESIDENT
Fawn Sharp
Quinault Indian Nation

RECORDING SECRETARY
Aaron Payment
*Sault Ste. Marie Tribe of Chippewa
Indians of Michigan*

TREASURER
W. Ron Allen
Jamestown S'Klallam Tribe

REGIONAL VICE- PRESIDENTS

ALASKA
Jerry Isaac
Native Village of Tanacross

EASTERN OKLAHOMA
Joe Byrd
Cherokee Nation

GREAT PLAINS
Leander McDonald
Spirit Lake Nation

MIDWEST
Roger Rader
Pokagon Band of Potawatomi

NORTHEAST
Lance Gumbs
Shinnecock Indian Nation

NORTHWEST
Mel Sheldon, Jr.
Tulalip Tribes

PACIFIC
Jack Potter, Jr.
Redding Rancheria

ROCKY MOUNTAIN
Darrin Old Coyote
Crow Nation

SOUTHEAST
Larry Townsend
Lumbee Tribe

SOUTHERN PLAINS
Liana Onnen
Prairie Band of Potawatomi Nation

SOUTHWEST
Joe Garcia
Ohkay Owingeh Pueblo

WESTERN
Bruce Ignacio
Ute Indian Tribe

EXECUTIVE DIRECTOR
Jacqueline Pata
Tlingit

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), we thank you for holding this Native Public Witness hearing specifically for tribal programs under the jurisdiction of this subcommittee. NCAI commends the hard work undertaken by the members of this subcommittee to uphold the federal trust and treaty obligations funded in this appropriations bill. As the most representative organization of American Indian and Alaska Native tribes, NCAI serves the broad interests of tribal governments across the nation. As the most representative organization of American Indian and Alaska Native tribes, NCAI serves the broad interests of tribal governments across the nation. As Congress considers the FY 2017 budget, leaders of tribal nations call on decision-makers to ensure that the promises made to Indian Country are honored in the federal budget. This testimony addresses the Bureau of Indian Affairs (BIA), Indian Health Service (IHS), and tribal programs in the Environmental Protection Agency.

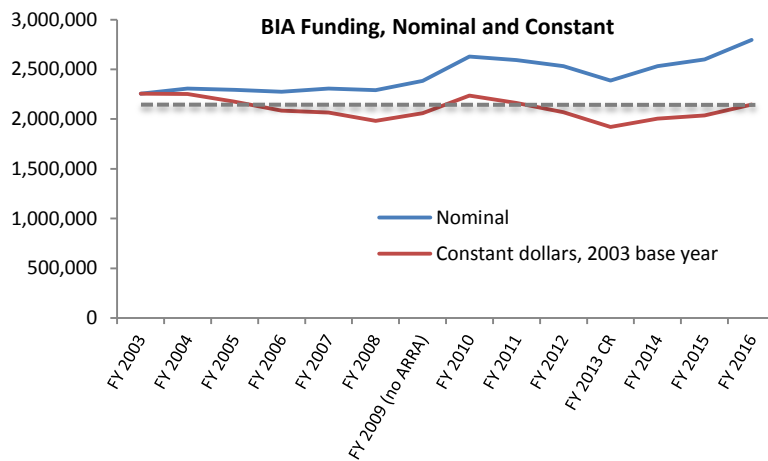
We have seen tremendous progress in the last few years with Congress's support for Indian Country and self-determination in the Federal budget. The FY 2016 Omnibus included substantial increases for BIA, Bureau of Indian Education (BIE), IHS, and other core tribal government programs and we are hopeful that the FY 2017 budget will build on the investments made in Indian Country in the Omnibus. Overall, we support efforts to address interrelated issues when possible. For instance, the Tiwahe initiative is a holistic approach to addressing family and community well-being. We have to tackle the inter-related problems of poverty, violence, substance abuse, and unemployment in Indian Country.

Federal Trust Responsibility

The relationship between tribal nations and the federal government is unique and founded on mutual promises. The obligations to tribes and their citizens funded in the federal budget reflect the trust responsibility. This solemn commitment is the result of treaties negotiated and agreements made between Indian tribes and the United States in exchange for land and resources. The trust responsibility commits the federal government to the protection of Indian lands; protection of tribal self-governance; and, provision of social, medical, and educational services for tribal citizens. The authority to fund programs that fulfill this responsibility is founded in the Constitution. In the course of American history, Indian tribes lost millions of acres of land through treaties and agreements, causing devastating losses through displacement and disruption of culture and religion. Tribal nations, however, continue to remember their treaties and agreements that made the United States what it is today. Moreover, tribes continue to defend their treaty-guaranteed rights and assert their powers of government, which emanate from the U.S. Constitution, treaties, acts of Congress, and presidential executive orders. Due to fluctuations in federal funding and the uncertain budget process, many tribes have faced continued emergencies in meeting the public service needs of their citizens.¹ Funding decisions by the Administration and Congress are an expression of our nation's policy priorities, and the federal budget for tribal governmental services reflects the extent to which the United States honors its obligations to Indian people.

Bureau of Indian Affairs

BIA provides the funding for core tribal governmental services, such as law enforcement and tribal courts, Indian child welfare programs, social services, Indian education, road maintenance, and energy development. The FY 2017 budget for Indian Affairs would be \$2.9 billion, an increase of \$137.6 million above the FY2016 level, an increase of about 5 percent. Increases include \$49 million for the Bureau of Indian Education’s transformation, \$15 million for tribal climate resilience, \$12.9 million for Indian water rights, and \$21 million for the Tiwahe Initiative. NCAI urges Congress to adopt at least the 5 percent increase for BIA’s budget to counteract the historic underfunding of the agency. For instance, since FY 2003, BIA funding has increased in nominal dollars by about 24 percent, but when adjusted for inflation, the FY 2016 enacted level is below the FY 2003 level by about 5 percent. The US Commission on Civil Rights will update its 2003 report on the “Quiet Crisis” later this year, which assessed federal funding and unmet needs in Indian Country. Long-term prioritization of core tribal programs is necessary to truly reverse the trends of historical underfunding that have had long-standing and detrimental impacts on our tribal citizens and our communities.



Ensuring tribal governments have the resources to meet the interrelated needs of their children, families, and communities are essential. Although Indian Country has much hope for our Native youth, our children are over represented in the foster care system, two and a half times their share of the population.^{ii, iii} The Tiwahe Initiative, which tribes have undertaken in coordination with the Bureau of Indian Affairs, represents a promising approach to addressing the

interrelated problems of poverty, violence, and substance abuse in Indian communities.

Tribes are expanding and integrating job training and social services programs to address child and family welfare, job training, and incarceration issues to promote family stability. However, recent reports on reducing children’s exposure to violence call for directing “sufficient funds to bring funding for tribal criminal and civil justice systems and tribal protection systems into parity with the rest of the United States.”^{iv} Tribal courts, Indian Child Welfare Act programs, and social services are critical funding streams addressing child and family welfare. NCAI strongly supports the proposed increases for social services, Indian Child Welfare Act, Housing Improvement, and Job Placement and Training.

Public Safety: The increase proposed for tribal courts aligns with requested increases from tribal leaders for FY 2017 as well. Congress has strongly supported increases for BIA criminal investigations and police services in recent years, but tribal courts funding has not received similar increases. NCAI urges Congress to retain the increases proposed for tribal courts.

Natural Resources: The \$15 million proposed increase would support tribal communities in sustainable resource management. Tribal representatives on the Tribal Interior Budget Council have expressed strong support for Fish-Wildlife-and-Parks, Water Resources, and Natural Resources programs throughout the FY 2017 budget consultation meetings.^v

Bureau of Indian Education: Education contributes to economic growth, while also expanding opportunities for individual advancement. For tribal communities, an educated citizenry serves as a catalyst to boost economic productivity and growth through a more highly-skilled workforce. In addition, investments in education strengthen the human capital across all sectors of society by attracting new businesses, reducing unemployment, and stimulating reservation economies through direct spending. However, low rates of educational attainment among American Indians and Alaska Natives continues to limit opportunity for economic success. In 2014, less than one in ten American Indians on reservations had a bachelor's degree or higher.

A major issue for BIE schools is the condition of BIE schools. According to prior testimony by the BIE, of the 184 BIE schools, 34 percent (63 schools) are in poor condition, and 27 percent are now over 40 years old. These substandard conditions are not conducive to educational success and impact the quality of education that the students receive. It is worth noting that a significant disparity exists in the treatment of BIE schools when compared to Department of Defense school funding, the other federally-run school system. Despite demonstrated need, the Department of the Interior has consistently proposed low levels of funding for replacement school funding when compared with Department of Defense schools. This is despite a demonstrated need of \$1.3 billion to clear the construction backlog at BIE schools.

The FY 2017 Budget Request for the Bureau of Indian Education proposes an increase of \$72 million for BIE activities and construction, including: \$24.6 million for Elementary and Secondary Education; \$2.1 million to fully fund Tribal Grant Support Costs; \$8 million for Education Program Management; \$6.5 million for the Indian School Equalization Program ; \$16.8 million for education information technology to enhance broadband and digital access; \$6.6 million for scholarship and adult education and an increase of \$250,000 for Special Higher Education Scholarships; \$3.6 million for Johnson O'Malley. Education Construction would receive a total of \$138.3 million. The increase includes \$25.3 million for replacement school construction to complete construction on the final two schools on the 2004 replacement school priority list. Tribal leaders as part have strongly supported education in Indian Country, specifically scholarships and adult education as well as Johnson O'Malley. We urge Congress to retain these increases for education programs.

Other Proposals: The President's budget also proposes \$4 million in the BIA's budget to establish a One-Stop Shop approach to support Tribes in accessing hundreds of services across the Federal government and build on the "Native One-Stop" effort launched in 2015. Ensuring that other bureaus and agencies outside of BIA and IHS meet their trust responsibility to Indian tribes will benefit all of Indian Country, so long as the major base funding for tribes continues to receive support from Congress and the Administration.

BIA's FY 2017 budget includes a proposed data initiative of \$12 million to enable the DOI to work with tribes to improve Federal data quality and availability, to create a reimbursable agreement with Census to address data gaps in Indian Country, and to create an Office of Indian Affairs Policy, Program Evaluation, and Data. This initiative would support data-driven, tribal policy-making and program implementation. This committee has been asking for data on tribal programs for years. We hope this office will provide the opportunity to improve program evaluation and justification as well as helping this committee in oversight. While many tribes caution against funding for this initiative adversely affecting tribal funding in BIA's budget, the effort to improve federal data quality and available must be worthwhile. BIA's proposed budget also includes funding to evaluate outcomes in meeting social service needs and community development needs in Indian Country. Such efforts for improving program evaluation within BIA and in Indian Country will assist in ensuring that the BIA is meeting its federal trust responsibility.

Indian Health Service

The Indian Health Service budget (IHS) request for FY 2017 of \$5.185 billion in budget authority is an increase of \$377.4 million (nearly 8 percent) above the FY 2016 enacted level. This FY 2017 Budget includes a long-term proposal to fully fund Contract Support Costs (CSC), which is done by the reclassification of IHS CSC to mandatory funding beginning in FY 2018. The Budget also proposes to provide increased resources to purchase health care services outside of IHS when services are not available at an IHS-funded facility. The President's budget would extend the 100 percent Federal Medical Assistance Percentage (FMAP) for services that are provided to AI/AN through IHS under the Medicaid program. This expansion would include the entire Indian health system, including Urban Indian Health Programs (UIHP), bringing the federal match to UIHPs in line with current law for IHS and other tribally-operated programs. For FY 2017, the [Tribal Budget Formulation Workgroup](#) requested \$6.2 billion for IHS. NCAI appreciates the bipartisan support for the Indian Health Service budget in Congress and we look forward to ongoing support for the IHS budget in providing much needed increases for the IHS budget.

Environmental Protection Agency

Recognizing tribes and states as the primary implementers of environmental programs, the EPA continued funding its State and Tribal Assistance Grants program, which accounts for the largest percentage of the EPA's budget request at 39.7 percent, or \$3.3 billion. Further, for the third year in a row, EPA requests an increase of \$31 million for the Tribal General Assistance Program. These additional funds will assist tribes in capacity building and promote protections for the environment and human health. This reflects an increase in base funding available for GAP grants, which will: (1) increase the average size of grants made to eligible tribes while providing tribes with a stronger foundation to build tribal capacity; and (2) further the EPA's partnership and collaboration with tribes to address a wider set of program responsibilities and challenges. As the largest single source of the EPA's funding to tribes, the Tribal GAP grants assist tribes to establish the capacity to implement programs to address environmental and public health issues in Indian Country. NCAI continues to support increased funds for Tribal GAP grants.

Conclusion

Thank you for this opportunity to share our concerns on programs that fulfill treaty and trust obligations in the federal budget. We look forward to working with this Subcommittee on a bipartisan basis once again this year.

ⁱ See NCAI Resolution ATL-14-084: Recommendations for Addressing the State of Emergency in Federal Underfunding of the Trust Responsibility

ⁱⁱ National Council of Juvenile and Family Court Judges (NCJFCJ), *Disproportionality Rates for Children of Color in Foster Care*, 2012

ⁱⁱⁱ These calculations require (1) the child population (by race) for any given state or jurisdiction, available from the 2010 census data; and (2) the number of children in the child welfare system (by race), available from the National Data Archive on Child Abuse and Neglect's Adoption and Foster Care Analysis and Reporting System (AFCARS).

^{iv} U. S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention. (2014). *Attorney General's Advisory Committee on American Indian/Alaska Native Children Exposed to Violence: Ending violence so children can thrive* (p. 51). Retrieved from

<http://www.justice.gov/sites/default/files/defendingchildhood/pages/attachments/2014/11/18/finalaianreport.pdf>

^v Tribal Interior Budget Council, FY 2017 priorities http://www.ncai.org/initiatives/tibc/FY_2017_Top_Priorities.pdf