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

Native Public Witness Hearing
Secretary Aaron Payment, National Congress of American Indians
May 10, 2017

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Introduction

On behalf of the National Congress of American Indians (NCAI), we sincerely thank you for holding this Native Public Witness hearing specifically for tribal programs under the jurisdiction of this subcommittee. NCAI would like to acknowledge the steadfast work undertaken and attention paid 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 Congress considers the FY 2018 budget, we 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 (EPA).

NCAI recognizes that in the last few years, this subcommittee has supported Indian Country and tribal self-determination in the federal budget. The FY 2017 Omnibus included hard-fought increases for BIA, Bureau of Indian Education (BIE), IHS, and other core tribal government programs. We are hopeful that the FY 2018 final Interior appropriations bill will build on the investments made in Indian Country in the FY 2017 Omnibus.

Federal Trust Responsibility

The relationship between tribal nations and the federal government is unique and founded on mutual promises. Indian treaties have the same status as treaties with foreign nations, and because they are made under the US Constitution are “the supreme law of the land.” Treaties and laws have created a fundamental contract between Indian Nations and the United States: tribes ceded millions of acres of land that made the US what it is today, and in return tribes have the right of continued self-government and the right to exist as distinct peoples on their own lands. That fundamental contract – the federal trust relationship – ensures that tribal governments receive funding for basic governmental services. As governments, tribes must deliver a wide range of critical services, such as health, education, workforce development, first-responder, and public safety services, to their citizens. The obligations to tribes and their citizens funded in the federal budget reflect the trust responsibility. Importantly, these programs are not based on race or ethnicity but rather on the centuries-long political relationship between tribal communities and the United States.

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.

Tribal Growth Benefits States and Regions

While the federal treaty and trust relationship calls for federal funding of education, healthcare, and other government services, upholding Indian treaty and trust obligations is also an important component of tribal and surrounding regional economies. Economists have found that tribal economic growth leads to economic growth in surrounding regions. Tribal economic activity produces regional multiplier impacts for the off-reservation economy.ⁱⁱ Economic research on tribal colleges, timber, procurement, and casinos has shown direct, indirect, and induced impacts on gross regional product and employment.ⁱⁱⁱ

Well-functioning governments are essential to market economies. Governments provide local and national public and quasi-public goods that the private sector would otherwise under provide,^{iv} such as public safety and justice – essential for conducting business on reservations and tribal lands. In addition, federal and tribal governments fund public investments in core infrastructure, such as roads, bridges, and water and sanitation systems that provide high economic rates of return.^v Such core infrastructure in Indian Country has faced insufficient public investment for decades. Additionally, noncore public investments, such as early childhood education, early childcare, health care, and a range of human services, provide at least as much of a near-term economic boost as core infrastructure.^{vi}

Bureau of Indian Affairs

BIA provides the funding for tribal governmental services, such as law enforcement and tribal courts, Indian child welfare programs, social services, Indian education, road maintenance, energy development, and many other areas. As our testimony goes to print, the Administration's proposed budget outline includes few details on proposals for programs that meet the federal treaty and trust obligations. However, the broad outline proposed by the Administration would reduce the budget for the Department of the Interior by 11.7 percent. While the department-wide percentage reduction would not necessarily apply to BIA in the same proportion, any reductions would undercut the potential progress of Indian Country as well as undercut the ability of tribal nations to provide for their citizens. We urge this Subcommittee to continue its bipartisan effort to meet the federal obligations for Indian Country.

Economic Contributions and Value Added of Federal Treaty and Trust Responsibility: Federal funding that meets federal Indian treaty and trust obligations also provide significant contributions to the economy. In just the Department of the Interior, the Bureau of Indian Affairs (BIA) and Bureau of Indian Education (BIE) “contribute substantially to economic growth in tribal areas through advances in infrastructure, strategic planning, improved practices of governance, and the development of human capital.”^{vii} In FY 2012, Indian Affairs “contributed over \$14 billion in value added, \$18 billion in economic activity and supported nearly 93,000 jobs, many of them on Indian lands.”^{viii} Value added is the contribution of an activity to overall Gross Domestic Product (GDP). Indian Affairs specific funding to support tribal governments provided value added of \$0.9 billion and economic contributions of \$1.2 billion. These estimates for GDP included energy, minerals, forestry, irrigation, support for tribal government, and loan guarantees. Education and public safety also provide significant social and economic benefits that are difficult to measure. Justice service programs provide economic benefits of: protection of property rights, support of health and safety, lower medical costs from crime, human capital development, and other positive spillover effects.^{ix}

Specific Funding Recommendations: While the details of the President's budget are not available, many of the BIA program areas supported by this Subcommittee in previous years remain important throughout Indian Country. For instance, in budget formulation discussions at the Tribal Interior Budget Council, tribes from all of the BIA regions identified Social Services and family support programs as in need of FY 2018 increases to address the interrelated needs of their children, families, and communities. Integrated approaches to service delivery that tribes have undertaken represent 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. 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, child welfare, Housing Improvement, and Job Placement and Training.

The President's Budget outline aimed to abolish many initiatives that serve only a few tribes. At the moment, the initiatives that will fall into this category are unclear. Several of the top TIBC budget priorities reviewed in the BIA budget formulation for FY 2019 are programs included in the Tiwahe initiative, including Social Services. Tribal leaders expressed strong support for programs that are a part of this initiative because of its goals of reducing poverty, domestic violence, and substance abuse, which in turn makes for safer communities. Many of the programs involved in this initiative have not had funding increases for years (except in the FY 2017 Omnibus bill), and they remain top programs in FY 2018 and 2019. Notably, all tribes received recurring base increases under the initiative. Non-pilot tribes stand to gain from learning best practices that will be documented and shared by the pilot tribes in addressing issues that affect most tribes throughout the nation, such as intervention and prevention, improving case management, strengthening partnerships with providers, and increasing access to family and social services to ultimately improve health, safety, and well-being.

Public Safety: BIA recently conducted an analysis of law enforcement and detention needs pursuant to the Tribal Law and Order Act, and found that the total need for basic law enforcement and detention services in Indian country is \$1 billion. This estimate includes tribes without regard to whether they are located in a PL 280 jurisdiction. Given the inadequacy of current funding levels, the BIA has had a policy for many years to generally provide law enforcement and detention funding only to tribes in non-PL280 jurisdictions. This has left tribes in many areas completely without BIA support for tribal police and detention needs. We ask Congress to commit to fully funding tribal law enforcement and detention within the next five years by incrementally increasing funding each year.

Road Maintenance: NCAI appreciates the increase of \$3.6 million for Road Maintenance for a total of \$30.3 million in the FY 2017 Omnibus bill. Most BIA regions have identified that this program requires additional increases to meet unmet needs. Currently, BIA needs approximately \$290 million per year to maintain BIA-owned roads and bridges to an adequate standard. Costs to maintain these roads have risen sharply due to high inflation for construction. NCAI requests \$40 million for the BIA Road Maintenance program in FY 2018 to address the growing roads maintenance needs.

Natural Resources: The FY 2017 included increases for Rights Protection Implementation, Tribal Management and Development, Forestry, and Fish-Wildlife-and-Parks. Tribal representatives on the Tribal Interior Budget Council have expressed strong support for these programs throughout the 2018 budget consultation meetings.^x

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. 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 include increases for education programs.

Indian Health Service

NCAI thanks the Subcommittee for including increases for IHS in the FY 2017 Omnibus bill of \$232.3 million over the FY 2016 enacted amount. For FY 2018, the Tribal Budget Formulation Workgroup requested \$7.1 billion for IHS. NCAI supports the requests of the Workgroup. 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

Tribes and states are the primary implementers of environmental programs. Program capacity building is a top environmental priority identified by tribes as part of the EPA National Tribal Operations Committee National Tribal Caucus. The Indian General Assistance Program (IGAP) 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 climate change and natural resource management, energy efficiency activities, and small scale renewable energy projects. GAP funding is particularly critical to Alaska Native villages, where it provides 99 percent of the overall funding to address their fundamental and often dire needs, such as safe drinking water and basic sanitation facilities. NCAI urges the Subcommittee to protect this funding against cuts in FY 2018.

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.

ⁱⁱ Croman, K. S., & Taylor, J. B. (2016). "Why beggar thy Indian neighbor? The case for tribal primacy in taxation in Indian country." *Joint Occasional Papers on Native Affairs* (JOPNA 2016-1). Tucson, AZ and Cambridge, MA: Native Nations Institute and Harvard Project on American Indian Economic Development

ⁱⁱⁱ Ibid.

^{iv} Hackbart, M., & Ramsey, J. R. (2002). The theory of the public sector budget: An economic perspective. *Budget Theory in the Public Sector*, 172.

^v Bivens, J. and Blair H. (2016). A public investment agenda that delivers the goods for American workers needs to be long-lived, broad, and subject to democratic oversight

^{vi} Ibid.

^{vii} U.S. Department of the Interior, Economic Report, FY 2012, July 29, 2013

^{viii} Ibid.

^{ix} Ibid.

^x http://www.ncai.org/2017.04.20_TIBC_Minutes_Amended.pdf