



MANDAN, HIDATSA & ARIKARA NATION

Three Affiliated Tribes * Fort Berthold Indian Reservation

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Office of the Chairman

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Good morning Chairwoman McCollum and Members of the Subcommittee. Thank you for the opportunity to testify on the appropriations priorities of the Mandan Hidatsa and Arikara Nation (MHA Nation). My name is Monica Mayer. I am an elected member of the MHA Nation Tribal Business Council. I also have 20 years experience as a family physician and health services administrator. Our testimony for FY 2020 is focused on the Indian Health Service (IHS) and Federal programs supporting Indian infrastructure within the Bureau of Indian Affairs (BIA) and other federal agencies.

Indian Health Service Funding Must Be Based on Actual Need and Forward Funded

Nothing is more important to the MHA Nation than the health of our people. Our tribal enrollment is around 16,250. About 90 percent of our members have visited one or more of our health programs at least once. The MHA Nation operates four field clinics and one large primary clinic called the Elbowoods Memorial Health Center. We also operate a dental facility and a diabetes wellness center.

Unfortunately, the Indian Health Service (IHS) budget process is based on historic funding levels and not a sound assessment of actual need. IHS budgets are almost always driven by the Office of Management and Budget (OMB), which incorrectly assumes that historic funding levels were adequate. They were not. As a result, the Subcommittee is left working with a proposed budget that everyone knows is wholly inadequate.

When you start with an inadequate budget from the prior year, a small increase in appropriations does little more than cover inflation. This is why tribal leaders provide the Subcommittee the same testimony on IHS budgets year after year. This is also why the level of service provided by IHS remains inadequate despite recent increases.

Today, IHS and OMB are using third party collections as an excuse for not asking Congress for the additional IHS appropriations that are clearly needed. All you have to do is look at the amount of third party revenue that tribes and IHS are collecting from Medicare and Medicaid, and the costs associated with collecting those third party dollars, to see just how little sense the current system makes. It makes no sense for the Federal government to spend money and staff time administering the passage of Medicare and Medicaid funding to IHS. Instead, the Subcommittee should appropriate this funding directly to IHS or the MHA Nation.

When the idea of third party collections were first raised with tribes, the MHA Nation was told that these collections would be used to help increase the level of services provided to

our members. This has not happened. Instead, third-party dollars have been used to justify lower appropriations requests and to pay for the third party billing required to secure those funds.

It is also important to note that many tribal service providers cannot bill for their time under Medicaid and other state operated programs because our specific staff does not meet what those third party payers have determined to be minimum licensing requirements. For example, some of our staff provide case management that meets IHS standards, but we still cannot bill Medicaid for that work, because those staffers lack the credentials that North Dakota requires.

With inadequate IHS services, the MHA Nation was forced to acquire private insurance that covers some of the health care costs for many of our members. We are able to acquire private insurance using revenues from oil and gas development on our Reservation, but these resources are not unlimited. More importantly, every dollar that we are forced to spend on private insurance is a dollar less for education, infrastructure improvement, law enforcement and economic development.

As the costs of health care continue to skyrocket, the MHA Nation understands the importance of making every dollar count, but that cannot happen when IHS funded programs are operating for 6 to 9 months a year without reliable budgets. Every year, IHS provides us with a target budget based upon the President's proposed budget and every year those number change. We know how hard this Subcommittee has worked to pass appropriations bills on time, but unfortunately, that simply has not happened.

We need forward funding for IHS to provide our programs with stability that is not affected by the politics of the annual appropriations process. Managing health care on inadequate budgets is hard enough without requiring our staff to spend countless hours and dollars adjusting their annual budgets. Just as an example, the federal government shutdown threatened to have devastating impacts on the MHA Nation health services and our members. Fortunately, we were able to use tribal funding to cover the operating costs of our clinics during the shutdown. Suffice it to say that this should never be allowed to happen again.

As a physician, I am a big proponent of preventative care, and I have seen the results that programs like the Special Diabetes Fund have had on the long-term health of those suffering from this very dangerous disease. A targeted effort like this save lives and also saves money. Please help us obtain a permanent reauthorization for this important program.

Finally, the MHA Nation requests that the Subcommittee understand that our day-to-day health care operations cannot operate on federal, state or private grants. While special federal grants can be a helpful way of securing special equipment and training, grants should never be used as a way to fund core operations.

Funding for Drug Addiction Prevention and Treatment

One of the more important health care projects we recently completed is a residential Drug Treatment Facility using \$25 million in tribal funds. To operate the Facility we will need an annual budget of \$5.25 million and long term funding solutions. Currently, IHS has a small amount of treatment funding, the Substance Abuse and Mental Health Services Administration

(SAMHSA) and the Department of Justice have small competitive grant programs. Meanwhile, BIA's Office of Justice Services (OJS), which operates or funds on-reservation detention programs, has no treatment dollars at all. We cannot sustain programs with this kind of funding.

Meanwhile, Medicare and Medicaid regulations prohibit the use of funding for court ordered treatment. This is a result of how funding works in state detention facilities. This does not work for tribal facilities and tribal sources of funding. We ask that FY 2020 appropriations for Medicaid and Medicare allow tribes to access this funding by including the following language: "except persons receiving addition services pursuant to an order of a tribal court."

A funding solution is needed to address the negative impacts of illegal drugs on our Reservation. The MHA Nation is forced to use revenues dedicated to other critical needs because of the lack of federal funding to address these impacts. This includes drug treatment facilities like the one we just constructed and about \$8 million in law enforcement discussed below.

Increased Federal Budgets Needed to Support Reservation Infrastructure

Increased federal budgets are needed to support infrastructure on our Fort Berthold Indian Reservation and promote economic development. Over the next 10 years, we estimate that we will need more than \$3.6 billion to maintain our physical infrastructure, develop our governing infrastructure and keep up with growth on the Reservation. Many of these areas are federal responsibilities and the Subcommittee should provide the funding needed to meet the Federal government's treaty and trust responsibilities to the MHA Nation.

We have an immediate need for about \$825 million for paved road construction and about \$685 million to maintain and resurface those roads. Between paved and unpaved roads we have an immediate need for \$1.6 billion. Roads maintenance and upgrades are needed to provide safe communities and to support commercial and energy activities.

In the area of housing, we have an immediate need of \$270 million for housing and \$160 million for housing related infrastructure. Over the next 10 years, we anticipate needing \$1.17 billion for housing growth and replacement, and \$234 million for housing related infrastructure. New housing development will also require about \$76 million in rural water infrastructure to provide municipal, residential and industrial water supplies. We also need to expand our solid waste facilities. Over the next 10 years we anticipate needing \$150 million for solid waste facilities expansion.

With increased populations we have increased need for law enforcement. We currently estimate needing about \$10 million to meet existing law enforcement needs, \$10 million for our Drug Enforcement Agency, and \$75 million for social services and public safety. In 2016, our law enforcement personnel handled almost 14,000 calls. In the past year we spent about \$8 million on law enforcement combatting drugs. Each year the demand on our law enforcement officers continues to increase.

Fortunately, on March 31, 2017, we completed a new Public Safety and Judicial Center on a budget of \$17.2 million. The Center provides space for law enforcement, communication, a 911 call center and tribal courts. To operate the Center we will need an annual budget of \$9.5 million. Over the next 10 years we anticipate needing \$240 million for drug enforcement.

To provide for our elders we are also developing an Assisted Living Facility. Completion is expected in April 2019 on a budget of \$8.5 million. To operate the Facility we will need an annual budget of \$2.4 million. Over the next 10 years we expect that we will need to construct a total of 5 assisted living facilities across our Fort Berthold Indian Reservation.

Finally, it is important to note that the economic activity on our Reservation brings a need for increased human capital within tribal government. While the federal government asks tribes to take on more oversight and responsibilities, federal proposals lack the funds tribal governments need to hire and train staff. To provide regulatory staff and resources to oversee oil and gas development on our Reservation we need \$20 million immediately and anticipate needing \$234 million over the next 10 years to staff and support regulatory offices.

State Dual Taxation of Energy Development Strains Tribal and Federal Budgets

The MHA Nation is in the middle of the Bakken Formation one of the most active and productive oil and gas formations in the United States. Energy development brought new economic opportunities to our Reservation, but as you can see it is overwhelming our transportation infrastructure, straining our law enforcement and healthcare facilities and requiring substantial investments in community infrastructure.

Even worse, under current federal law, North Dakota can place a dual tax on the development of our energy resources. To avoid state dual taxation, which would have eliminated energy development for us, the MHA Nation reluctantly entered into a tax agreement with the State. As a result of this agreement, the State takes more than half of the tax revenues from oil and gas development on our Reservation. Over the past 10 years, the State took more than a \$1 billion in taxes from energy development on the Reservation. While the State maintains a rainy day Legacy Fund from oil and gas tax revenues with a balance of more than \$4 billion, the MHA Nation estimates that its budget shortfall for the past 10 years was more than \$1.95 billion.

Without a change in the law, the State will take another billion over the next 5 years. The loss of these revenues prevents the MHA Nation from keeping up with road repairs and improvements, law enforcement, housing, health care, elder care, environmental management and much more. We need the same tax revenues that every other government relies on.

We ask members of the Subcommittee amend the Indian mineral leasing laws to make clear Congress' intent that tribes retain the full value of their energy resources and stop states from making a windfall profit from our natural resources. If Congress does not confirm the ability of Indian tribes to receive the full benefit of their energy resources, even more increases federal budgets will be needed to support demands on tribal infrastructure.

Thank you for your consideration. We look forward to finding solutions to these funding issues.