



## NATIONAL CONGRESS OF AMERICAN INDIANS

Written Testimony of Fawn Sharp  
President of the National Congress of American Indians  
For the House Committee on Appropriations,  
Subcommittee on Interior, Environment, and Related Agencies  
April 5, 2022

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**NCAI HEADQUARTERS**  
1516 P Street, N.W.  
Washington, DC 20005  
202.466.7767  
202.466.7797 fax  
[www.ncai.org](http://www.ncai.org)

On behalf of the National Congress of American Indians (NCAI), thank you for this opportunity to provide testimony on FY 2023 funding for the Department of the Interior (DOI), the Indian Health Service (IHS), the Environmental Protection Agency (EPA), and the U.S. Forest Service, involving our recommendation of \$55.54 billion in funding. The spending within this subcommittee's jurisdiction include some of the most critical funding for Indian Country. Unfortunately, chronically underfunded and sometimes inefficiently structured federal programs have left many basic obligations of the United States to Tribal Nations and their people unmet for centuries, which contribute to the inequities observed in Native American communities.

The President's FY 2023 Budget Request to Congress calls for a historic shift in the paradigm of Nation-to-Nation relations that seeks to restore the promises made between our ancestors and the United States in several key programs. It includes requesting mandatory funding for: IHS, DOI Contract Support Costs, and Section 105(l) Tribal Leases; along with a myriad of investments in Indian healthcare, education, public safety, natural resource management, and infrastructure. The Biden-Harris proposal represents the most revolutionary presidential budget and policy proposals for tribal programs, which tribal leaders have long advocated for, are long overdue, and are prepaid for by our ancestors.

After the COVID-19 pandemic struck, the federal government listened to Tribal Nations' collective voice and provided the largest single infusion of federal funding for Native Americans in U.S. history.<sup>1</sup> Funding from the American Rescue Plan Act embodied a simple and effective strategy to maximize the investment: empowering Tribal Nations to design their own solutions. While this funding is historic, necessary, and essential, Tribal Nations began the pandemic on unequal footing compared to state and local governments. This historic inclusion in federal spending for Indian Country must be the norm, and not the exception.

The Subcommittee can do this by: working with the Budget Committee to account for mandatory obligations as mandatory spending; providing funding for programs that far outpaces the appropriations status quo that has left tribal communities less safe, less prosperous, and inhibits economic potential; empowering Tribal Nations to address climate change and restore their homelands, including funding for taking land into trust and a *Carciere* fix;<sup>2</sup> providing resources to further DOI's commitment to improve the protection of, and tribal access to, Indigenous sacred sites; and by providing advance

<sup>1</sup> Eric C. Henso et. al, "Assessing the U.S. Treasury Department's Allocations of Funding for Tribal Governments under the American Rescue Plan Act of 2021", Harvard Project on American Indian Economic Development & Native Nations Institute, Policy Brief No. 7 (November 3, 2021), available at: [https://ash.harvard.edu/files/ash/files/assessing\\_the\\_u.s.\\_treasury\\_departments\\_allocations\\_of\\_funding\\_for\\_tribal\\_governments.pdf?m=1635972521](https://ash.harvard.edu/files/ash/files/assessing_the_u.s._treasury_departments_allocations_of_funding_for_tribal_governments.pdf?m=1635972521)

<sup>2</sup> See NCAI Resolutions [RAP-10-058c](#), [MSP-15-044](#), and [DEN-18-055](#).

appropriations until such time that all trust and treaty obligations to Tribal Nations are accounted for and provided as mandatory spending.

### **U.S. Department of the Interior**

The government-to-government relationship between the United States and Tribal Nations extends to all agencies of the federal government and is not singularly housed within tribal affairs bureaus or offices. The long history of federal Indian policies of removal, assimilation, reorganization, and termination have placed many tribal lands in the hands of federal land management agencies with the duty to conserve and protect them. Tribal Nations are assuming greater roles of stewardship and co-management of public lands, waters, and wildlife that demonstrate the creative management solutions that tribal/federal partnerships bring to federal land management. Additionally, Tribal Nations play a unique role in the mitigation of wildland fires, a joint responsibility of federal land management agencies and Tribal Nations over more than 535 million acres.

Tribal Nations are fighting battles to protect and retain access to their homelands, ensuring their freedom to continue practicing their religious and cultural customs. Every week, it seems, NCAI hears a new story of our sacred lands under threat, either from nonconsensual development, environmental harm, or restriction of treaty guaranteed access for the original stewards of these places. Infringements on Native American cultural and religious rights and protections are not limited to federal lands. Private landowners continue to till some of the last natural habitats for Peyote in the United States, affecting biodiversity in the ecosystem and destroying religious practices that have existed for millennia. The U.S. Fish and Wildlife Service, Partners for Fish and Wildlife program allows for partnerships with Tribal Nations and private landowners for the conservation and protection of working landscapes such as forests, farms, and ranches. This subcommittee must leverage these and other existing authorities to provide grants to Tribal Nations and Tribal organizations for partnerships with private landowners for the conservation and protection of Peyote.

In November 2021, the Secretaries of the Interior and Agriculture signed a joint secretarial order to facilitate agreements with Tribes to collaborate in the co-stewardship of federal lands and waters.<sup>3</sup> This subcommittee must provide and direct resources into the protection and tribal co-management of federal lands for the conservation and protection of natural resources, historical and sacred areas, and subsistence rights for all Tribal Nations.

### **Indian Affairs**

NCAI recommends \$5.36 billion for Indian Affairs programs in FY 2023, consistent with the official FY 2023 recommendation of the Tribal/Interior Budget Council (TIBC).<sup>4</sup> Within TIBC's FY 2023 recommendations are robust increases for all base-funded programs, and additional funding to address public safety and justice in tribal communities; the economic and social wellbeing of our citizens and all those who visit or do business there; the backlog of school, community, and government infrastructure construction and maintenance; taking land into trust; and addressing climate resiliency in tribal communities and on Indian and federal lands.

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<sup>3</sup> Joint Secretarial Order on Fulfilling the Trust Responsibility to Indian Tribes in the Stewardship of Federal Lands and Waters, Order No. 3403, accessed at: <https://www.doi.gov/sites/doi.gov/files/elips/documents/so-3403-joint-secretarial-order-on-fulfilling-the-trust-responsibility-to-indian-tribes-in-the-stewardship-of-federal-lands-and-waters.pdf>.

<sup>4</sup> TIBC Tribal Representatives' FY 2023 Budget Submission to the Department of the Interior, June 14, 2021, accessed at: [https://res.cloudinary.com/ncai/image/upload/v1632171603/tibc-documents/FY\\_2023\\_Tribal\\_Budget\\_Submission\\_qs1dgw.pdf](https://res.cloudinary.com/ncai/image/upload/v1632171603/tibc-documents/FY_2023_Tribal_Budget_Submission_qs1dgw.pdf).

NCAI supports the TIBC recommendation for an additional \$15 million for the expansion of the Tiwahe Initiative to, at least, ten new pilot sites. The Tiwahe Initiative promotes a comprehensive and integrated approach to supporting family stability and strengthening tribal communities by addressing interrelated issues associated with child welfare, domestic violence, substance abuse, poverty, and incarceration. Lasting and efficient community solutions lie in addressing the interrelated problems of poverty, violence, and substance abuse through a comprehensive, culturally appropriate approach to help improve the lives and opportunities of Indian families.

NCAI also recommends funding for the establishment of an Economic Development Pilot Initiative, similar to the Tiwahe Initiative, that provides base funding increases directly to Tribal governments to develop and operate comprehensive and integrated economic and community development. Tribal Nations are diverse in their geographic and cultural representation, making targeted and limited Indian Affairs funding opportunities for economic and community development too restrictive, too costly, and less efficient. The June 2021 TIBC meeting discussed diverse community needs from tourism, to farming/ranching, to advancing tribal timber industries (e.g., saw mills), to fish hatcheries; but this conversation was not new to the TIBC discussion or limited to these topics. The common theme between them is that they are each unique but their development must be integrated, which underscores the value of policy solutions that empower Tribal governments to develop solutions specifically tailored to their communities. This Economic Development Pilot Initiative should include, at least, funding for: the development of tribal government codes to promote economic development (e.g., tourism, timber, zoning, and building codes, etc.); business infrastructure development; feasibility studies; and investment capacity.

NCAI strongly supports accounting for Contract Support Costs and Payments for Tribal Leases as mandatory spending. This shift in scorekeeping can occur by an agreement between Appropriators, the Office of Management and Budget, and the Budget Committees. This Subcommittee has consistently published report language citing the mandatory nature of these obligations, which are typically addressed through mandatory spending. NCAI urges this Subcommittee to work with the House Budget Committee to achieve this goal.

### **Indian Health Service**

NCAI recommends \$49.83 billion for the Indian Health Service (IHS) in FY 2023, consistent with the official FY 2023 recommendation of the IHS National Tribal Budget Formulation Workgroup.<sup>5</sup> NCAI also strongly urges you to ensure IHS funding is provided as mandatory spending, with a mechanism to automatically adjust spending to keep pace with population growth, inflation, and healthcare costs. This will ensure that the funding Congress provides for Indian healthcare can be used efficiently and strategically, without leaving IHS wondering if, or when, funding will halt.

Mandatory spending for IHS is a simple promise. A promise that the United States honors and upholds its treaty and trust obligations. A promise that Congress will enact solutions that cease the undue and unnecessary suffering of our people. A promise of certainty and security for our communities and most vulnerable populations. We urge you to help fulfill this promise made to our ancestors, by your ancestors, for our shared future.

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<sup>5</sup> IHS National Tribal Budget Formulation Workgroup FY 2023 Budget, May 2021, accessed at: <https://www.nihb.org/docs/02072022/FY%202023%20Tribal%20Budget%20Formulation%20Workgroup%20Recommendations%20Vol%201.pdf>.

## **Environmental Protection Agency**

As place-based peoples, Tribal Nations have sacred histories and maintain cultural practices that tie them to their current land bases and ancestral territories. As a result, tribal peoples directly, and often disproportionately, suffer from the impacts of environmental degradation. Federal funding to support environmental protection for tribal lands was not forthcoming until more than 20 years after the passage of the Clean Water and Clean Air Acts.<sup>6</sup> Almost 40 years after the passage of the Clean Water Act, only 46 of 77 eligible Tribal Nations have Environmental Protection Agency (EPA)-approved water quality standards,<sup>7</sup> which are a cornerstone of the Clean Water Act. Given the disparate access of tribal communities to safe and clean water, NCAI recommends a 5 percent tribal set-aside for each the National Safe Drinking Water State Revolving Fund (DWSRF) and the National Clean Water Act State Revolving Fund (SRF), with \$71.97 million to be appropriated to the DWSRF and \$99.1 million to be appropriated to the SRF.

Additionally, NCAI recommends \$100 million be appropriated for the EPA Tribal General Assistance Program, \$30 million for the Tribal Air Quality Management Program, and \$46.8 million for EPA's Land and Emergency Management programs for the benefit of Tribal Nations.

## **U.S. Forest Service**

Tribal Nations that engage in timber harvesting are working to expand their participation in the management of neighboring at-risk federal forest through accelerated implementation of the Tribal Forest Protection Act (TFPA). TFPA authorizes the Secretary of Agriculture and the Secretary of the Interior to enter into contracts or agreements with Tribal Nations to carry out tribally proposed projects on Forest Service or Bureau of Land Management-managed lands. Additionally, the 2018 Farm Bill contains an important expansion of the P.L. 93-638 contracting authority to the U.S. Forest Service, allowing the Secretary of the Interior and the Secretary of Agriculture to enter into agreements whereby Tribal Nations or tribal organizations may perform administrative, management, and other functions of TFPA programs through P.L. 93-638 contracts. The President's FY 2023 Budget Request includes a request for \$11 million to expand the time-tested principles of self-determination and self-governance and empower Tribal Nations to reclaim what they have known for millennia – how to manage and conserve the landscape for sustainable economies and cultural practices.

## **Conclusion**

Tribal Nations are resilient and have demonstrated their resolve and dedication since time immemorial. However, Tribal Nations are uniquely reliant on the federal government to fulfill the promises made in exchange for the land that created the foundation of the bounty and wealth of the United States. Our people have paid for every penny obligated to Indian Country hundreds of times over by providing this nation with our land. In order to uphold this Nation's promises to its people, it must first uphold its promise to this land's First People. We expect to continue to be treated as sovereign nations and with governmental parity. When we work together we can achieve so much. We must now continue down that path of Nation-to-Nation growth, and only then will all of our people be able to fully flourish.

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<sup>6</sup> United States Federal Register, *Indian Tribes: Air Quality Planning and Management*, 63 Fed. Reg. 7254, 1998, <https://www.govinfo.gov/content/pkg/FR-1998-02-12/pdf/98-3451.pdf>.

<sup>7</sup> Environmental Protection Agency, *EPA Actions on Tribal Water Quality Standards and Contacts*, <https://www.epa.gov/wqs-tech/epa-actions-tribal-water-quality-standards-and-contacts>.