



**Testimony of the
Ute Indian Tribe of the Uintah and Ouray Reservation**

**U.S. House of Representatives Committee on Appropriations
Subcommittee on Interior, Environment and Related Agencies
Fiscal Year 2019 Appropriations**

April 30, 2018

Thank you for the opportunity to testify before the Subcommittee on Interior, Environment and Related Agencies regarding Fiscal Year (FY) 2019 Appropriations. My name is Tony Small. I am the Vice Chairman of the Ute Indian Tribal Business Committee.

NEW FUNDING NEEDED FOR INDIAN EDUCATION

The Ute Indian Tribe asks that the Subcommittee prioritize funding to fulfill the Federal government's treaty and trust responsibilities to provide for Indian education. The Bureau of Indian Education (BIE) should be funded to support new school construction and authorized to support tribal bonding and loan guarantees for new school construction by Indian tribes. These would not be additional BIE schools. These would be tribal controlled and managed schools funded pursuant to the Federal government's treat and trust responsibilities. Congress and this Subcommittee have a responsibility to restore tribal sovereignty and self-determination to Indian education.

Tribal self-determination has long been recognized as the most successful and effective Federal Indian policy. Congress originally enacted this policy through the Indian Education and Self-Determination Act of 1975. While the Act provided many opportunities for tribal self-determination, its main focus was Indian education. The Act was intended "to facilitate Indian control of Indian affairs in all matters relating to education." 25 U.S.C. § 2011(a). In addition, regulations implementing the Act provide that Tribes should "fully exercise self-determination and control in planning, priority-setting, development, management, operation, staffing and evaluation in all aspects of the education process." 25 C.F.R. § 32.4(a)(3).

Yet, despite the Act's focus on education, tribal self-determination has all but been eliminated from Federal education laws and policy. Today BIE struggles to fund and operate 183 BIE and Tribally operated schools that only serve about 8% of tribal youth. About 92% of tribal youth are educated in state schools according to federal and state standards.¹

As a result, a non-profit policy paper found that "Federal funding of State public schools enriches State school budgets and is ... effectively an unlawful delegation of Federal treaty and trust obligations to States."² Just as important, tribal youth in BIE and state schools are taught according to "Federal and State (not Tribal) curriculum, academic standards, accreditation requirements, truancy laws, assessment, and other education policies."³ The Federal government must stop funding states to educate tribal youth according to non-tribal standards!

¹ PATHKEEPERS FOR INDIGENOUS KNOWLEDGE, EDUCATION SOVEREIGNTY: RESTORING SELF-DETERMINATION IN NATIVE AMERICAN EDUCATION 5 (2016)

² *Id.*

³ *Id.* at 3.

The Subcommittee can start to correct this problem by funding tribal school construction through the BIE. The funding is available. Congress and the Administration must simply prioritize the funding as was done for Department of Defense (DOD) schools. In 2015, a newspaper investigation found that:

DOD launched a \$5 billion construction surge in 2010 to renovate or replace 134 of its 181 schools by 2021. Seventeen new schools have been completed, 23 are under construction and 37 are in the design phase. In contrast, the Interior Department has requested just \$3.2 million in replacement school construction funding for one Indian school in 2015.⁴

We all know the funding is available. It is a matter of priorities and living up to the treaties and agreements with Indian tribes upon which the United States was founded.

The Ute Indian Tribe currently runs our Uintah River High School on our Uintah and Ouray Reservation in Fort Duchesne, Utah. This is Charter School run through the state school system. The School provides our tribal youth with positive cultural experiences, small class sizes and teaching designed to provide for the educational success of our youth.

Our students deserve the best schools available. We also need schools for our elementary students. We ask the Subcommittee and Congress to live up to its treaty and trust responsibilities and fund construction of tribal schools through direct funding, bonds and loan guarantees. We also ask the Congress stop sending our tribal education dollars to the states. Tribes need that funding to hire teachers and staff to run our schools.

Only by making these changes will Congress meet the requirements it established in the Indian Education and Self-Determination Act. We need to make these changes to restore tribal self-determination over the education of our youth. For 200 years, the Federal government has tried to assimilate and teach our students according to federal and state standards. This has failed. It is time for Indian tribes to education our tribal youth according to tribal standards. That is the definition of self-determination.

FUNDING INCREASES NEEDED FOR NATIVE AMERICAN HOUSING

Funding for housing in Indian Country is not keeping up with our housing needs and does not address the special housing issues we face. Like education, the Federal government has a treaty and trust responsibility to provide housing for Indian tribes and our members. While we understand that this Subcommittee does not directly oversee the funding of Native American Housing Block Grants under the Native American Housing Assistance and Self-Determination Act, we ask that Subcommittee members weigh in with the full Appropriations Committee to properly fund Native American housing.

⁴ Star Tribune Editorial Board, *Separate but Unequal: Indian Schools a Nation's Neglect*, Star Tribune, April 2, 2015, <http://www.startribune.com/part-1-indian-schools-a-nation-s-neglect/283514491/>.

Our Ute Indian Housing Authority needs increased funding to meet housing needs, address maintenance and repair backlogs, and resolve the special problem of rehabilitating homes where methamphetamine was used. In this time of need, the President's FY 2019 Budget proposes decreasing funding for Native American housing by \$50 million. This is unacceptable.

First, the Ute Indian Tribe, like most tribes, has a desperate unmet need for new homes for our growing reservation population. Almost \$4 million is needed on our Reservation alone to build rental units, apartment complexes, and home ownership homes to meet our need. Without proper funding our people are forced to live in crowded and unsafe, conditions.

Second, a large number of our Mutual Help Homeownership Program homes are thirty to forty years old. They are in dire need of repair and maintenance. The costs of repairs and maintenance are beyond the means of the owners or tenants. Without additional funding, maintenance issues continue to grow and renovations become unaffordable. This undercuts the purpose of the Mutual Help Homeownership Program—providing Native Americans an opportunity for affordable homeownership.

Third, special funding is needed to repair homes damaged by methamphetamine use. We have 32 damaged units that cost about \$20,000 each to repair. Generally, the home must be stripped down to the studs, washed with a solution, and ventilated. The heating and cooling system often needs to be cleaned and sealed during the stripping process, and, in extreme cases, the heating and cooling system needs to be replaced. In some cases, the home is a total loss and costs about \$100,000 to rehabilitate. Every dollar spent fighting this drug problem should be going to renovating old homes and providing affordable housing on our Reservation.

We ask that you work in the full Committee to increase funding for Native American housing.

STAFFING AND OPERATING NEW JUSTICE CENTER

The Ute Indian Tribe thanks the Subcommittee for its support and effort to provide start-up and staffing costs for our new tribally constructed Justice Center. We appreciate the \$1.4 million that you appropriated in FY 2018 for the opening and operation of new tribally constructed justice centers and detention buildings. While this is a good start, we are not sure how much of the \$1.4 million will be allocated to our Justice Center and much more is needed.

The Ute Indian Tribe asks that this funding be increased in FY 2019 to the levels necessary to address law enforcement on our Reservation. The BIA's Office of Justice Services (OJS), which operates our detention program using federal employees, advises us that it needs a total of \$4,844,000 to full operate our detention areas in compliance with federally mandated standards. This includes \$2,675,464 for the adult wing and \$2,169,422 for the juvenile section.

Until our detention center is fully staffed, BIA is forced to pay to house many detainees in county jails and release prisoners into our community because of inadequate bed space. This is very frustrating, given that we just expended in excess of \$36 million of tribal funds to build this facility to replace a condemned BIA jail after years on the construction list with no action.

In addition to adequate funding, BIA needs full authority to enter into leases to operate justice facilities constructed by Indian tribes. The Ute Indian Tribe asks that the Subcommittee include language in the FY 2019 appropriations bill that grants full unilateral leasing authority back to the BIA. Due to issues with the General Services Administration, BIA is unable to finalize a lease to occupy and operate our Justice Center.

We also need a funding solution for addiction treatment in tribal justice centers. Drug addiction and crime go hand in hand, but we need to break down the funding silos. The Indian Health Service has a small amount of treatment dollars, the Substance Abuse and Mental Health Services Administration and the Department of Justice (DOJ) have small competitive grant programs, and Medicare and Medicaid current regulations prohibit the use of its dollars for court ordered treatment. Meanwhile, BIA's OJS, which actually operates or funds on-reservation detention programs, has no treatment dollars at all. We ask that FY 2019 appropriations for Medicaid and Medicare allow tribes to access this funding by including the following language: "except persons receiving addiction services pursuant to an order of a tribal court."

SUPPORT FOR INDIAN ENERGY DEVELOPMENT

The President's budget recognizes the significant economic impact from Indian energy development, but then proposes cutting funding for nearly every real estate and energy program needed to process energy permits. The President's budget states: "According to the U.S. Department of the Interior Economic Report FY 2016 ... the Department's tribal energy and mineral programs had a Total Economic impact of over \$9.58 billion in 2016."⁵ In addition, the national economic impact of this energy development was about \$18.1 billion in 2016.⁶

The Ute Indian Tribe asks that the Subcommittee prioritizing funding for BIA programs that support Indian energy development. This includes energy programs such as the Office of Indian Energy and Economic Development's Division of Energy and Mineral Development and the Indian Energy Service Center, as well as local BIA Agency real estate and environmental positions. The \$4.5 million provided in FY 2016, to establish the Indian Energy Service Center was a good start, but additional funding is needed to fully the office. The Service Center provides needed support for permitting, but front line staff in our BIA Agency are also needed.

TRIBAL CONSULTATION NEEDED ON INTERIOR REORGANIZATION PLANS

Finally, it has been about a year since Secretary Zinke announced his plans to reorganize the Department of the Interior. The Secretary has not held a single consultation session us or any other tribes. We ask that the Subcommittee refuse to appropriate any funding for reorganization efforts until proper and required government-to-government tribal consultation is held.

Thank you for the opportunity to testify on these important funding issues.

⁵ DEPT. OF THE INTERIOR, BUDGET JUSTIFICATIONS AND PERFORMANCE INFORMATION FISCAL YEAR 2019 IA-CED-4 (2018)

⁶ *Id.*