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S. HRG. 108–420

FISCAL YEAR 2005 BUDGET

HEARING

BEFORE THE

COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

ONE HUNDRED EIGHTH CONGRESS

SECOND SESSION

ON

PRESIDENT'S BUDGET REQUEST FOR INDIAN PROGRAMS

FEBRUARY 11, 25, 2004
WASHINGTON, DC

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CONTENTS

Page

FEBRUARY 11, 2004

Statements:
Akaka, Hon. Daniel K., U.S. Senator from Hawaii 3
Campbell, Hon. Ben Nighthorse, U.S. Senator from Colorado, chairman, Committee on Indian Affairs 1
Conrad, Hon. Kent, U.S. Senator from North Dakota 12
Dorgan, Hon. Byron L., U.S. Senator from North Dakota 2
Edwards, Gary, chief executive officer, National Native American Law Enforcement Association 22
Hall, Tex, president, National Congress of American Indians 4
Inouye, Hon. Daniel K., U.S. Senator from Hawaii, vice chairman, Committee on Indian Affairs 2, 30
Johnson, Hon. Tim, U.S. Senator from South Dakota 7
Kashevaroff, Don, president and chief executive officer, Alaska Native Tribal Health Consortium 13
LaMarr, Cindy, president, National Indian Education Association 15
Murkowski, Hon. Lisa, U.S. Senator from Alaska 11
Smith, H. Sally, chairman, National Indian Health Board 8
Sossamon, Russell, chairman, National American Indian Housing Council 19

APPENDIX

Prepared statements:
Action for Indian Health Campaign from California 37
Edwards, Gary 39
Hall, Tex 48
Jack, Lyle, chairman, Oglala Sioux Tribal Education Committee 54
Johnson, Hon. Tim, U.S. Senator from South Dakota 58
Kashevaroff, Don 59
La Marr, Cindy 64
Smith, H. Sally 70
Sossamon, Russell 78
Steele, John Yellowbird, president, Oglala Sioux Tribe 84

FEBRUARY 25, 2004

Statements:
Black, Douglas, director, Office of Tribal Programs, Indian Health Service Department of Health and Human Services 94
Campbell, Hon. Ben Nighthorse, U.S. Senator from Colorado, chairman, Committee on Indian Affairs 91
Garman, David, assistant secretary of energy efficiency and rewewable energy, Department of Energy 108
Hartz, Gary, acting director, Office of Public Health, Indian Health Service, Department of Health and Human Services 94
Henke, Tracy, deputy associate attorney general, Department of Justice .. 110
Johnson, Hon. Tim, U.S. Senator from South Dakota 97
Jones, Lonna, acting director, Elementary, Secondary and Vocational Education, Division of the Budget Service, Department of Education 104
Liu, Michael, assistant secretary, Public and Indian Housing, Department of Housing and Urban Development 107

Page

Statements—Continued
Martin, Aurene, principal deputy assistant secretary for Indian Affairs, Department of the Interior 92
Martin, Cathie, group leader, Office of Indian Education, Department of Education 104
McSwain, Robert G., director, Office of Management Support, Indian Health Service, Department of Health and Human Services 94
Murkowski, Hon. Lisa, U.S. Senator from Alaska 98
Swimmer, Ross, special trustee for American Indians, Department of the Interior 92
Vasques, Victoria, director, Office of Indian Education, Department of Education 104

APPENDIX

Prepared statements:
Garman, David (with attachment) 120
Hartz, Gary 117
Henke, Tracy (with attachment) 136
Liu, Michael 154
Martin, Aurene (with attachment) 161
Swimmer, Ross (with attachment) 161
Vasques, Victoria (with attachment) 177

Note: Other material submitted for the record will be retained in committee files.

FISCAL YEAR 2005 BUDGET

WEDNESDAY, FEBRUARY 11, 2004

U.S. SENATE,
COMMITTEE ON INDIAN AFFAIRS,
Washington, DC.

The committee met, pursuant to notice, at 9:30 a.m. in room 485, Senate Russell Building, Hon. Ben Nighthorse Campbell (chairman of the committee) presiding.

Present: Senators Campbell, Akaka, Conrad, Dorgan, Inouye, Johnson, Murkowski, and Thomas.

STATEMENT OF HON. BEN NIGHTHORSE CAMPBELL, U.S. SENATOR FROM COLORADO, CHAIRMAN, COMMITTEE ON INDIAN AFFAIRS

The CHAIRMAN. Good morning. The committee will be in session.

On February 2, 2004, the President submitted to Congress his $2.23 trillion budget request for 2005. The request includes $10.8 billion for the Department of the Interior, with increases targeted to trust programs, law enforcement, fire management and others. This morning, the committee will hear from national tribal organizations to get their views on the request. On February 25, the agencies will be in to provide their views on the request.

For the past several years Indian trust matters have come to dominate the agenda and the budget debate and very simply have overshadowed an awful lot of things that we ought to be doing. It should therefore come as no surprise that a total of $614 million in this budget is requested for trust-related activities in Department of the the Interior. Specifically, funding is requested for historical accounting, departmental reorganization, technology upgrades, records management, and the Indian land reconsolidation. Of that $614 million, darn little of it will go to education for youngsters, or health care, or money that is needed for senior citizens.

In particular, I am encouraged by this budget's request of $75 million to buy back parcels of fractionated lands and return them to tribal ownership. There are a number of other items that need to be discussed in the weeks ahead such as Indian health care, funding for Indian housing, and the Federal commitment to Indian education. In the interests of time, since we have a number of committee members here today, I would like to yield to Senator Inouye for any opening statement he has.

STATEMENT OF HON. DANIEL K. INOUYE, U.S. SENATOR FROM HAWAII, VICE CHAIRMAN, COMMITTEE ON INDIAN AFFAIRS

Senator INOUYE. Mr. Chairman, as you have indicated, ever since this committee was formed, there is one thing that we can always count on. There is never enough funding to carryout even the minimal nature of the programs that this committee would want.

We have some good things on the horizon. The National Museum of the American Indian is scheduled to open this year. It has been a long wait, but I hope that all of you here will take advantage and just walk out there to see the new edifice.

I have been advised that the mediation process on the trust account may be on the verge of some success. They are looking at a new proposal which seems acceptable to all parties.

So there are happy signs on the horizon. I hope that we can come to a conclusion on this budget that we can handle early, and a bit more realistic than the one that the Administration has submitted.

I thank you very much, sir.

The CHAIRMAN. Thank you.

Just as a reminder for those who are interested, the National Museum on the American Indian opening that Senator Inouye and I authorized years and years ago is going to take place the whole week of September 21. It is going to be a week-long celebration. That will be the newest museum in the Smithsonian chain. We are very excited about that. We are encouraging all tribal people to try to participate in that grand opening, too.

I think I will go back and forth here. Senator Thomas, did you have an opening statement?

Senator THOMAS. No; thank you, Mr. Chairman. I am just interested in hearing the information.

The CHAIRMAN. Thank you.

Senator Dorgan.

STATEMENT OF HON. BYRON L. DORGAN, U.S. SENATOR FROM NORTH DAKOTA

Senator DORGAN. Mr. Chairman, just briefly let me say how proud I am that Chairman Tex Hall from the Three Affiliated Tribes is here. He is also the president of the National Congress of American Indians. He is from my home State of North Dakota. He will be testifying today, and we really appreciate Chairman Hall's leadership.

Let me also say we have just received the President's budget. I am very concerned about the BIA budget cut, tribal college funding cut, BIA school funding cut, Indian health facility construction cut, and so on.

Look, we have a full-scale crisis, Mr. Chairman, on Indian reservations in housing, health care and education. We have to address it. The President's budget increases funding for wild horses and burros by $12 million. I am all for wild horses and burros, but I do not believe that they are more important than health care, education and housing needs of American Indians.

It is also the case that when we say we do not have the money to do this, to invest in children and others on reservations, we just sent $19 billion-plus to Iraq, so they now have a housing program in Iraq paid by U.S. taxpayers' dollars. They have a health care

program in Iraq. They have an education program in Iraq. If we can make that kind of investment in Iraq, we can make that kind of investment on America's Indian reservations in health care, education and housing for American Indians in this country.

We will have a lot more to say about that. I do not want to have a lengthy statement here. But let me finally say one final point, we are blessed here in this capitol building to work under the watchful eye of a young woman named Sakakawea. We just finished a ceremony not long ago by which we in North Dakota put our second statue in statutory hall in the U.S. Capitol. I am proud to tell you that it is a young woman named Sakakawea and her child on her back. I think the only statue in the Capitol with actually two people, a young 16-year-old woman and her baby, who guided the Lewis and Clark expedition with such great skill. I am really proud of that. I tell you that only because Chairman Hall was here that day and was part of that ceremony, and I am really pleased he was.

The CHAIRMAN. Senator Akaka, did you have a statement?

STATEMENT OF HON. DANIEL K. AKAKA, U.S. SENATOR FROM HAWAII

Senator AKAKA. Thank you very much, Mr. Chairman.

I want to thank you and Vice Chairman Inouye for holding this important hearing today, as we examine the President's fiscal year 2005 budget request for Indian programs.

I want to take the time to say thank you to the witnesses who are here and to welcome them here.

Over the years, the committee has worked with Indian country to address challenges facing native people across the country. Here is another one of those efforts. We welcome the advances that have been made, as was mentioned, in health care, but to continue making progress in this and other areas such as education and other social areas really needs more work. I want to tell you that I am here to join my colleagues in continuing to work with them to increase funding to meet the needs of all native peoples.

Thank you very much, Mr. Chairman.

The CHAIRMAN. Thank you.

Now, if the panel would come and take the table. Tex Hall, president of NCAI; Sally Smith, chairman of the National Indian Health Board from Denver; Don Kashevaroff, the president and chief executive officer of the Alaska Native Tribal Health Consortium; Cindy LaMarr, president of the National Indian Education Association; Russell Sossamon, chairman of the National American Indian Housing Council; and Gary Edwards, the CEO of the National Native American Law Enforcement Association.

We will start in that order, and would tell the panel that all of your written testimony will be included in the record, so you do not need to read it verbatim. If you would like to ad lib part of your testimony, that would be fine. If you would just go ahead in the order that I announced you.

President Hall, why don't you go ahead and proceed.

STATEMENT OF TEX HALL, PRESIDENT, NATIONAL CONGRESS OF AMERICAN INDIANS

Mr. HALL. Thank you, Mr. Chairman, Mr. Vice Chairman, Senators Dorgan, Akaka, Thomas, and the members of the committee. We are very pleased to be able to present testimony today on this very important hearing on the President's budget. We are representing of course the National Congress of American Indians, over 250 tribes.

Mr. Chairman, as you mentioned, the President on February 2 proposed a $2.4 trillion-budget for the fiscal year 2005 year that includes level funding and numerous decreases for Indian programs, continuing a trend of consistent declines in Federal per capita spending for Indians compared to per capita expenditures for the population at large.

We are deeply disappointed that the budget request does not reflect leadership to take on the quiet crisis of underfunding for Federal Indian programs that was underscored by a comprehensive 2003 report of the bipartisan United States Civil Rights Commission. While we recognize that this budget reflects fiscal belt-tightening across the board, we believe this quiet crisis should be a national priority that we need to address. We hope that Congress and this committee will work with the tribes to see this priority better reflected in our budget.

The Administration's proposed budget does not reflect the priorities of Indian country to fully fund Indian health care, tribal priority allocations, contract support, road maintenance, school facilities and services at the local level. These priorities have been laid forth by the BIA Tribal Budget Advisory Council, of which I am a member, as well as all of the 12 regions are represented in the United States, as well as by tribal leaders in budget consultations with Indian Health Services and the other Federal agencies. We ask that these recommendations be taken more closely to heart as the 2005 budget advances.

In addition to addressing the troubling general trend of decreased Federal fulfillment of trust obligations to tribes, we want to highlight three key concerns within the proposed budget. One is self-determination programs, which throughout the budget initiatives within the Administration has expressed consistent support for, have not only failed to receive needed funding increases, but face cuts which will deeply hobble tribes' ability to effectively assume local control in the face of shrinking TPA budgets, inadequate 638 pay cost increases, insufficient contract support funding, and grossly underfunded administrative cost grants for schools.

Second, funding for law enforcement in Indian country would continue a troubling downward trend under the 2005 budget request. At a time when the national concerns are for homeland security and public safety, most require a concerted Federal support. Essential Department of Justice funding for tribal courts would be cut by $7.6 million. In Indian country, prison detention grants would be cut by $2.5 million, and a 50-percent increase in funding for tribal law enforcement is necessary to provide for basic public safety in Indian country.

Third, precious resources continue to be diverted to the Department of the Interior's reorganization, which tribes have opposed as the way it is proceeding and which fails to take into account the need for local flexibility for the results of the 2(B) study which was recently completed by the Department. More effective use of funds is demonstrated by the focus, for example, on the funding for the land consolidation, which is proposed within the budget, which we support. Until a better plan which reflects consultation with the tribes who know best what works in trust management at the local level, a moratorium should be placed on further funding of the reorganization.

In the BIA budget, the costs of OST and BIA reorganizations are effectively punishing the tribes for the Department's own trust mismanagement, a double injury to individual and tribal trustees hurt by this mismanagement.

With the continuing focus on a reorganization plan which NCAI and numerous tribes have opposed, the 2005 budget proposes a net increase of $42 million in trust-related programs, and cuts other programs to offset trust increases, resulting in basically a decrease in critical tribal funding within BIA of over $100 million. So other key areas of the BIA budget remain deeply underfunded, including TPA. Unfortunately, the proposed budget does not even address inflationary costs. So NCAI recommends at least a 5-percent increase in TPA for 2005 to address the inflation.

The budget request includes a significant increase of $53.3 million to the Indian land consolidation account, a welcome increase to this area which is strongly supported by NCAI and tribes, is vital to the long-term trust management reform. However, $109 million would be directed toward a historical accounting in the absence of any acceptable parameters for how to undertake this extraordinarily complex task.

The Office of Special Trustee would receive a $113.6 million increase, for a total of $322.7 million, which is partially offset by a $63 million-cut to BIA construction and a $13.5 million-cut to BIA other recurring programs. We believe this is unacceptable. Within BIA construction accounts, education construction will lose $65.9 million, despite a terrible backlog of new school construction needs that everyone agrees must be addressed promptly.

Tribal leaders have repeatedly emphasized that funding needed to correct problems and inefficiencies in DOI trust management must not come from existing BIA management must not come from existing BIA programs or administrative moneys. Yet once again, this year's budget reduces expected funding for tribes to fund a reorganization that we have opposed.

In addition to contract support costs, this budget reflects a $2 million-reduction in funding for contract support. An additional $25 million is needed in BIA to fully fund contract support. We need to stop penalizing tribes that operate BIA and IHS funding under self-determination.

NCAI and the United States Civil Rights Commission have called for badly needed increases to funding for BIA school operations. But rather than addressing the tremendous need that exists for classroom dollars, transportation and contract support for trib-

ally operated schools, this critical account would be decreased under the 2005 budget request.

Within the added burden of implemented requirements of No Child Left Behind, additional funding for ISEP is critical. NCAI also remains deeply concerned about the impact of the Office of Indian Education program at BIA is consolidation of line officers on BIA school functions that would reduce services as tribes are trying to become in compliance with the No Child Left Behind Act.

In Indian health care, it marks a rise of $45 million over the 2004 enacted level, but still falls far short of addressing the overall growth in population and rapidly increasing medical costs which have resulted in expanded unmet needs in Indian country. IHS's real spending per American Indian has fallen sharply over time, and now stands at less than 50 percent of what is spent for health care for Federal prisoners. Proposed funding for Indian health care facilities construction would be cut more than half under this proposal.

Funding for maintenance and improvement, as well as medical equipment for Indian health facilities would receive level funding in the proposed budget, despite a crisis situation of aging facilities and equipment.

In Contract Health Services, in my tribe failure of the IHS to reimburse for contract care in a timely fashion has damaged the credit ratings of many tribal members and impacted their capacity to qualify for home ownership mortgages. NCAI recommends an increase to Contract Health of $120 million in the 2005 budget.

We are heartened to see the $10 million increase in the BIA public safety and justice account, most of which will fund new operations at eight BIA detention facilities. These funds are sorely needed and the increase will be well received. We remain concerned, however, that this funding does not meet the need for policing and on-the-ground patrol services. At a time when homeland security and public safety concerns most require concerted Federal support for law enforcement in Indian country, a 50-percent increase for funding for tribal law enforcement is necessary.

Tribal leaders share the President's concern for homeland security. We ask that a concerted effort be made to ensure that tribal areas have equal access to the 2005 funds directed toward homeland security and public safety.

The Department of HHS has reported that 8 percent of Indian homes lack running water, compared to less than 1 percent of the non-Indian population homes; 33 percent of tribal homes lack adequate solid waste management systems. Yet as reflected in our written testimony, critical programs to improve these infrastructure shortfalls would be cut under the 2005 budget.

Finally, under tribal colleges, we welcome the increases in funding for the Native American Institution Endowment Fund which would be increased by $3 million in the Department of Agriculture. But the President's budget would cut nearly $6 million from BIA funding for tribal colleges for a third year in a row. The budget also recommends no funding for the United Tribes Technical College in Bismarck, North Dakota, a very important tribal institution which NCAI strongly supports.

Mr. Chairman and members of the committee, again NCAI realizes Congress must make difficult budget choices this year. As elected officials and tribal leaders, we certainly understand the competing priorities that you must weigh over the coming months. However, the Federal Government's solemn responsibility to address the serious needs facing Indian country remains unchanged whatever the economic climate and competing priorities there are. So we at NCAI urge you to make a strong across-the-board commitment to meeting the Federal trust obligation by fully funding those programs that are vital to the creation of a vibrant Indian Nation.

So Mr. Chairman, thank you for allowing me to testify. I will be happy to answer questions later on.

[Prepared statement of Mr. Hall appears in appendix.]

The CHAIRMAN. Thank you.

Next we will go to Ms. Smith.

Ms. SMITH. Thank you.

The CHAIRMAN. I tell you what, just 1 moment. We did have a couple of members come in.

Did you have a statement that you needed to do before you have to leave, Senator Conrad or Senator Johnson, either one?

Senator CONRAD. I would be happy to have the witnesses proceed, Mr. Chairman.

The CHAIRMAN. Okay. Senator Johnson.

Senator JOHNSON. Thank you, Mr. Chairman.

I would like to make a very brief statement, if I may.

The CHAIRMAN. Go ahead. I do not know what your schedule is.

STATEMENT OF HON. TIM JOHNSON, U.S. SENATOR FROM SOUTH DAKOTA

Senator JOHNSON. I want to say, Chairman Campbell and Vice Chairman Inouye, thank you for holding this hearing on such a vital issue. I will keep my comments very brief, but I do want to highlight a couple of problems that frankly I think are of enormous importance.

Needless to say, I am grossly disappointed with the President's priorities; that is another way of saying with his values. We are spending $1 billion a week in Iraq. The President is proposing billions of dollars of additional tax cuts for America's wealthiest families, while at the same time proposing to cut funding for construction of hospitals and schools here at home.

The President recommends IHS health facilities construction be gutted, from $94 million in 2004 to $42 million in 2005. Additionally, the BIA school construction account is being cut by $65.9 million, while over 40 schools are desperately waiting for construction funds now. The backlog is long and the need is immediate, and the President's proposal makes no sense whatever.

Broadly speaking, I am concerned that the President wants to fund trust fund reform at the expense of other Indian programs. While trust fund reform is necessary, I am encouraged that the President has increased the amount of money going toward the buying back of fractionalized land. It is a matter of great importance to me.

The injustice in the budget I think is rife with examples important to my South Dakota tribes, such as the President's request

pertaining to the tribal priority allocation or TPA funding. The President's request has a minuscule increase. These TPA funds are critical because tribes use them to carryout day-to-day government programs and functions. The President's request in this area is simply inadequate, and therefore impeding self-determination.

Within BIA and OST, there is an initiative which I found particularly interesting, the creation of a new Office of Tribal Consultation at BIA with a whopping $1.1 million budget. The President apparently wants to create an office to do a function that the Administration is obligated to do under treaty and trust obligations as it is.

I am sure that President Steele of the Oglala Sioux Tribe and Councilman Jack from OST, who are with us today, can think of a lot better things that they could use $1.1 million for in the Pine Ridge Reservation, where as we speak their constituents are wondering how they are going to heat their homes tomorrow without spending an additional $1 million to do obligations that this Administration already had in the first place.

As the testimony today will reflect, every aspect of Indian funding is hurting, housing, health care, education, infrastructure. I understand this is a tough fiscal year. I understand that the tribes will not get every need fulfilled. But there are a lot of problems with the President's budget. We have got to do better. As a member of the Budget and the Appropriations Committees, and working closely with Chairmen Campbell and Inouye, I will do what I can to correct these problems and to put our priorities and our values back where they ought to be.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

You probably know, Tex, there are five, if I am not mistaken, of the members on this committee are also appropriators, as Senator Johnson mentioned. As in the past, you need to remember that the budget that comes over from the White House is a request, and rarely ends up the way any President asks for. We have a lot to say about what is increased and what is decreased. I know I can speak for the other members who are appropriators on this committee that we are going to do our best to make sure that the needs are met.

Mr. HALL. That is very encouraging. Thank you, Mr. Chairman.

The CHAIRMAN. Okay, now let's go on to Sally Smith, please. Welcome, Sally.

STATEMENT OF H. SALLY SMITH, CHAIRMAN, NATIONAL INDIAN HEALTH BOARD

Ms. SMITH. Thank you, Chairman Campbell, Vice Chairman Inouye and distinguished members of the Senate Committee on Indian Affairs. I am H. Sally Smith, chairman of the Bristol Bay Area Health Corporation in Southwest Alaska.

On behalf of the National Indian Health Board, it is an honor and a pleasure to offer my testimony this morning on the President's fiscal year 2005 budget for Indian programs. The National Indian Health Board serves federally recognized American Indians and Alaska Native tribal governments in advocating for the improvement of health care delivery to American Indians and Alaska

Natives. Our board members represent each of the 12 areas of the Indian Health Service and are elected at-large by the respective tribal governments within their regional areas. I am pleased to tell the committee that the entire National Indian Health Board is with us this morning.

I will keep my remarks to less than 5 minutes, and ask that my statement be entered into the record.

The CHAIRMAN. It will be.

Ms. SMITH. With release of the President's budget, as expected things look challenging. For the Indian Health Service, the request is $2.97 billion, which constitutes a 1.6-percent increase over the fiscal year 2004 request or $45 million. Tribal leaders gather annually to develop a needs-based budget for Indian Health Service funding. The needs-based budget developed for fiscal year 2005 documents the Indian Health Service health care funding needs at $19.4 billion. In light of the documented needs for Indian country, $2.97 billion falls well short of the level of funding that is actually needed.

Even though we face an uphill climb, given that the President wishes to hold non-defense discretionary spending to one-half of 1 percent, we will not abandon our efforts to see that the health care crisis in Indian country is addressed, and we call upon Congress to do the same.

Health care spending for American Indians and Alaska Natives lags far behind spending for other segments of society. My written statement provides detailed recommendations regarding the fiscal year 2005 budget request, but because of my limited time this morning, I want to focus on the importance of health promotion and disease prevention, and the need to increase such activity in Indian country.

One of the most valuable and cost-effective ways to improve a person's health and well-being is through health promotion and disease prevention. It is a wise investment. The Administration has placed a high priority on health promotion and disease promotion as evidenced by the steps to a healthier U.S. initiative. We could not agree more. The Indian Health Service, as well as the National Indian Health Board, are increasing efforts to emphasize the value of health promotion and disease prevention.

As a member of the IHS Health Promotion and Disease Prevention Policy Advisory Committee, I believe that with a small financial commitment from Congress to boost prevention in Indian country, we will see a vast improvement in several critical areas.

As the committee is keenly aware, no other segment of the population is more negatively impacted by health disparities than the American Indian-Alaska Native population. Tribal members suffer from disproportionately higher rates of chronic disease and other illnesses. Heart disease and cancer are the leading causes of death for American Indians and Alaska Natives. The rate of cardiovascular disease among American Indians and Alaska Natives are twice the amount for the general public, and continue to increase.

The prevalence of diabetes is more than twice that for all adults in the United States and the mortality rate from chronic liver disease is more than twice as high. There are 20 percent fewer American Indians and Alaska Native women that receive prenatal care

than all other races, and they engage in significantly higher rates of negative personal health behavior such as smoking and alcohol and illegal substance consumption during pregnancy.

While these disparities are largely attributable to a lack of adequate funding, we could make a substantial impact if health promotion and disease prevention efforts are expanded. The President's budget provides a $2-million increase to the Indian Health Service for health promotion and disease prevention efforts. While we desperately need additional funding in all services, I ask that Congress pay particular attention to this area and make a real commitment to providing Indian country with the tools to combat obesity, improper nutrition, inactivity and other negative health behaviors.

The President's budget includes $103 million for sanitation construction, an increase of $10 million. This increase demonstrates the Administration's commitment to providing safe water and waste disposal to an estimated 22,000 homes. Proper sanitation facilities play a considerable role in the reduction of infant mortality and deaths from gastrointestinal disease in Indian country.

We are also pleased that the Administration has requested $3 million for new epidemiology centers to serve the Navajo, Oklahoma, Billings, and California areas, as well as increasing support for the seven existing centers, which currently serve about one-half of the IHS-eligible service population.

The budget request includes $497 million for Contract Health Services, which is an additional $18 million. While we are very thankful for any increase, the proposed level of funding is so limited that only life-threatening conditions are normally funded. The documented need for Contract Health Services exceeds $1 billion. At present, less than one-half of the Contract Health Services need is being met, leaving too many Indian people without access to necessary medical services. We recommend an increase of $175 million, which would raise American Indian–Alaska Native tribes to approximately 60 percent of need.

The President's fiscal year 2005 budget request does not provide an increase for contract support costs. An increase in contract support costs is necessary because as tribal governments continue to assume control of new programs, services, functions and activities under self-determination and self-governance, additional funding is needed.

Tribal programs have clearly increased the quality and level of services in their health systems fairly significantly over direct service programs, and failing to adequately fund contract support costs is defeating the very programs that appear to be helping improve health conditions for American Indians and Alaska Natives. We strongly urge reconsideration of this line item in the proposed budget.

As tribes increasingly turn to new self-determination contracts or self-governance compacts, or as they expand the services they have contracted or compacted, funding necessary to adequately support these is very likely to exceed the proposed budgeted amount. We ask you to fund contract support costs at a level that is adequate to meet the needs of tribes and to further the important trust responsibility charged to the Federal Government. We recommend an

additional $100 million to meet the shortfall for current contracting and compacting.

According to the President's fiscal year 2005 budget, the number of tribally managed IHS programs continues to increase both in dollar terms and as a percentage of the whole IHS budget. Tribal governments will control an estimated $1.8 billion of IHS programs in fiscal year 2005, representing 56 percent of the IHS total budget request. Because of this, it is critical that funding for self-governance be provided in a manner reflective of this.

Finally, for tribal governance to continue managing IHS programs and other direct services tribes could consider compacting, we ask that funding for self-governance be increased to $20 million.

The President's fiscal year 2005 budget request increases spending for homeland security by 10 percent. The budget request reflects the priorities of the United States with regard to health and safety concerns relating to homeland security. It is important to note that along with the Department of Defense and Veterans Affairs health systems, the IHS occupies a unique position within the Federal Government as a direct health care provider.

Therefore, we are requesting that funding be added during fiscal year 2005 to help the Indian Health Service and tribal governments prepare for and respond to potential terrorist attacks, including increases for data systems improvements. It is imperative that we continue to pursue tribal inclusion in the national homeland security plan.

On behalf of the National Indian Health Board, I would like to thank the committee for its consideration of our testimony and ask for your continued interest in the improvement of health for American Indians and Alaska Natives.

Thank you.

[Prepared statement of Ms. Smith appears in appendix]

The CHAIRMAN. Thank you, Sally.

Before we go on to Don Kashevaroff, Senator Murkowski, did you have a statement, since your constituent just made her presentation?

STATEMENT OF HON. LISA MURKOWSKI, U.S. SENATOR FROM ALASKA

Senator MURKOWSKI. Mr. Chairman, thank you. I wish that I had been here at the very beginning, but I think I did get most of Sally's testimony, so I appreciate that.

I do have an opening statement, Mr. Chairman. I will submit it for the record. I would just like to state I understand that we were scheduled, as is tradition here in the Senate, to hear the agency folks first, and that was canceled.

The CHAIRMAN. It has just been postponed. It will be next week.

Senator MURKOWSKI. Postponed, right. But you kept this hearing so that the constituents are actually heard from first, which is good. I would hope that the agency folks are listening to the comments that we will receive today. I know that when we do hear from the agencies, my questions will be probably as a consequence of some of the comments that we hear today.

I do welcome Sally Smith. I also welcome Don Kashevaroff, also from Alaska, and I am pleased once again to have their very fine testimony here this morning.

I think, as were many of us, we were a little disappointed in seeing the budget that we have before us. I have some very specific issues in certain of those areas. I think my constituents know well of those, but we will be probing into them in a little greater detail as we move forward with this process.

So Mr. Chairman, if I can submit my opening remarks.

The CHAIRMAN. Yes; it will be included in the record. You bet.

[Prepared statement of Senator Murkowski appears in appendix.]

The CHAIRMAN. Mr. Kashevaroff, why don't you go ahead.

Senator CONRAD. Mr. Chairman.

The CHAIRMAN. Excuse me. Yes, Senator Conrad.

Senator CONRAD. Might I take just 1 moment of time at this juncture.

The CHAIRMAN. Sure.

Senator CONRAD. I appreciate that.

STATEMENT OF KENT CONRAD, U.S. SENATOR FROM NORTH DAKOTA

I wanted to thank our chairman, Tex Hall, for being here; chairman of Three Affiliated Tribes. Tex has really done a superb job as president of the National Congress of American Indians. He is a leader. This is a time that requires leadership.

As a member of the Senate Committee on the Budget and a member of this committee, I must say in looking at this budget, I think it is deeply flawed; deeply flawed in its priorities; deeply flawed in its commitment to one place where the Federal Government has a unique responsibility. That is with respect to our Native American citizens.

The President's priorities strike me as completely out of whack. On the one hand, he says we should make permanent the tax cuts previously enacted. Let me just say that an accountant friend of mine from back home called me just a few weeks ago and told me had just taken in the tax return of one of his clients who had $1 million of dividend income for last year. He had just filled out his tax return for him, and he is going to get a refund of $250,000; an elderly man with no family, no financial needs. Under the tax plan the President pushed through, that gentleman is going to get a $250,000 tax refund, that in the context of the biggest deficit in the history of the United States. The President's answer is, make that plan permanent.

Then on the other hand, he turns to the spending side of the equation and he says, we are going to eliminate all of the funding for the United Tribes Technical College in my home town of Bismarck, ND, a place that gives hope and opportunity to thousands of students, that has the chance of giving people a lift, a chance to make the most of their God-given talent.

And the President's budget says cut the tribal colleges by 10 percent; cut them. In my experience in Indian country, the greatest hope lies with those tribal college institutions. I have seen the looks on the faces of those graduating. I have seen their pride and accomplishment. I have seen their sense that they can make a bet-

ter future for themselves and their families. It is a riveting thing to go to the graduation ceremony of a tribal college.

Those opportunities, which are already a fraction of what we provide traditionally Black colleges, a fraction of what we provide community institutions in this country. The President's answer is cut them. Why? Because we have to apparently provide for tax relief for the wealthiest among us, when we can't pay our bills now.

These are priorities I do not think reflect the priorities of the American people. I think if we sat down around the kitchen table in North Dakota and were working out a budget, we would say, you know, we should have a United Tribes Technical College; we should not eliminate that institution; we should not be cutting tribal colleges; we should not be cutting housing opportunities; we should not be underfunding the provisions for health care for Native Americans when the Federal Government has a direct obligation and responsibility, so that we can turn around and give a gentleman with a million dollars of income a $250,000 tax refund.

What kind of priorities are these? They are certainly not priorities that I share. And to say we ought to make permanent, make permanent that kind of tax relief in the face of a flood of red ink and unmet needs that are clear and acute.

So Mr. Chairman, I hope on a bipartisan basis that we are able to go back and change these priorities and get this country back on a course that makes more sense.

I thank the Chairman and I thank my colleagues.

The CHAIRMAN. Okay, thank you.

Don, why don't you proceed.

STATEMENT OF DON KASHEVAROFF, PRESIDENT AND CHAIRMAN, ALASKA NATIVE TRIBAL HEALTH CONSORTIUM

Mr. KASHEVAROFF. Thank you, Chairman Campbell and Vice Chairman Inouye, and Senator Murkowski and members of the committee, for the opportunity to testify on the President's 2005 budget for the Indian Health Service.

My name is Don Kashevaroff. I am the president of Seldovia Village Tribe in Southcentral Alaska, that serves about 500 Alaska Natives. I am also chair and president of the Alaska Native Tribal Health Consortium, which serves 120,000 Alaska Natives and American Indians. I also serve as the chair of the Tribal Self-Governance Advisory Committee which serves one-half of the tribes of this great Nation.

I know we have limited time today so I really just want to touch on two important issues, Mr. Chairman. That is, inflation and contract support costs.

One of the first things I learned in business school was the time value of money. To put this simply, because of inflation, $1 yesterday was worth more than $1 today. Well, Mr. Chairman, inflation really is our deadly enemy here. This might not seem possible, but every year that IHS budgets do not keep up with inflation, our people are suffering.

In 2004, I just received a 1.2-percent increase across the board. Medical inflation was actually 8 to 10 times more than this. In my written testimony, I included some references to a U.S.-Government study that showed that Medicare has been rising nearly 10

percent a year; Medicaid costs over 10 percent a year; and prescription drug costs 15 percent a year.

Compare this to IHS's cost increases that we have been getting. We have been getting between one and three percent for the last couple of years. Even in our best year a couple of years ago when we had a 3.2-percent increase, we were still at least 7 percent behind inflation.

My question, I guess, Senators, is how are we going to get rid of the health disparities that Native Americans face today if we can't even keep up with inflation that we have right now? I know that you are all aware of the various challenges that American Indians face, but the President's 2005 budget continues this deadly trend. Funding increases for Medicare in this budget are much higher than those for IHS. It seems odd that if one can recognize that Medicare costs have to increase, why can't we recognize that IHS costs also must increase? They both are for direct service in the end. We need to look at the increases not only to keep up with inflation, but also to close the gap of disparities.

So Mr. Chairman, I ask that you do what you can to have a 12-percent increase across the board in the IHS budget this year, to meet the inflation and also to make up some of the ground we lost last year.

I also want to talk to you about the very important, but misunderstood funding need, and that is contract support costs. Contract support costs are mutually agreed upon costs between the U.S. Government and the tribe. These costs are for part of the costs of running the programs that we have been taking over. The tribe and the Government mutually agree on these costs. It is not something that the tribes pull a number out of the air and say, this is what it costs us. It is just a mutually agreed upon thing through the different circulars that everyone knows what is accurate and what is correct. But when it comes time to pay these costs, after the tribe has performed their service, the Government neglects to pay the full amount.

This would be something like if I took an example maybe in the private sector, that if a government was going to outsource something for a product or services, or maybe like buy a jet fighter, the Government would sit down with the contractor and work out the contract and negotiate a cost or negotiate a price. And then after the company went out and did their deal and made the jet fighter and gave it to the Government, the Government would not turn around and say, oh, we are going to short you on some of the money; we decided that we do not have enough; we are only going to pay 80 percent of what we agreed to. That would be ludicrous to do that, and it would be very dishonest to do that.

But when it comes to Native American tribes that diligently perform their duty and perform their contracts, their mutually negotiated contracts, the U.S. Government does just that. They turn around and say, well, you did your work; thank you, but we have decided that even though we agreed on what we should pay you, we are going to pay you less now. That is really inexcusable in my mind, sir.

Why are the first Americans treated differently in this respect? I cannot figure that out. In my training in ethics in business

school, they never taught me that it is okay that if a business is run by the tribes that you do not have to treat them the same. I was brought up knowing that when you make a deal, a deal is a deal. You pay your debts, and if you do not have the right deal, then you go negotiate a new one, but you don't welsh on what you have.

So my concern, sir, is that this has been going on for many years. You heard testimony that the need is around $100 million, and we really need to have contract support costs paid. The tribes of this country that have taken over their own programs have become very efficient; have become very good at running health care. At the same time, the U.S. Government has decided to not fully fund them and all their costs to take over the Indian Health Service programs.

So Mr. Chairman, I would ask that you do everything in your power to correct this serious contractual embarrassment, really, and fully fund contract support costs for the first Americans.

I know that America is, in my mind, the greatest country on earth. I think most folks know that. The world kind of looks to us. I know there are a lot of people in the world that do not like us, but the whole world does look to us because we protect the world. We drive its wealth. We provide health services to countries across the oceans. And we really stand for democracy in this world, and by democracy, self-determination.

So I want to know why in this multi-trillion budget, why can't we keep the first Americans from falling further behind in health care? It is often said that if we can put a man on the moon, why can't we do this or why can't we do that. But I understand that pretty soon maybe I will be able to say, if we can put a person on Mars, why can't we find adequate funding for IHS?

I think that is what it is coming to, sir. I know that this committee knows the details. I know you are well-educated and versed on the problems. I ask that all the members of this committee work hard to educate the rest of the Senate and the rest of the government on the needs of Indian country, sir.

Thank you very much.

[Prepared statement of Mr. Kashevaroff appears in appendix.]

The CHAIRMAN. Thank you, Don.

Ms. LaMarr.

STATEMENT OF CINDY LAMARR, PRESIDENT, NATIONAL INDIAN EDUCATION ASSOCIATION

Ms. LAMARR. Thank you, Chairman Campbell and Vice Chairman Inouye. It is an honor to be here before. Also, thank you to the members of the Senate Committee on Indian Affairs. Thank you for this opportunity to be here before you to testify on problems with the fiscal year 2005 budget. As I heard here, you understand and so we are speaking to the choir, so to speak, when it comes to education matters.

I am the president of National Indian Education Association. I am Pit River Paiute from Northern California. We have the largest population of American Indian students in the Nation in California and some other problems.

NIEA was founded in 1969 and is the largest organization in the Nation dedicated to Indian education advocacy issues, and embraces the membership of over 4,000 American Indian, Alaska Native and Native Hawaiian educators, tribal leaders, school administrators, parents, teachers and students.

NIEA makes every effort to advocate for the unique educational and culturally related academic needs of Native students, and to ensure the Federal Government upholds its immense responsibility for the education of American Indian and Alaska Natives through the provision of direct educational services.

This is incumbent upon the trust relationship of the U.S. Government and includes the responsibility of ensuring educational equity and access. Recognition and validation of the cultural, social and linguistic experiences of these groups is critical in order to guarantee the continuity of Native communities. The way in which instruction and educational services are provided is critical to the achievement of our students, for them to obtain the same standards of students nationwide.

Making education a priority for native students: In the Senate committee's views and estimates report for last year's fiscal year 2004 budget request for Indian programs, it states that educational attainment for native youth is deficient compared with other groups in the United States. An aggravating factor in educational achievement is the continued inability of the Federal Government to ensure adequate, safe and clean educational facilities conducive to learning.

The No Child Left Behind Act: Although NIEA supports the broad-based principles of No Child Left Behind, there is widespread concern about the many obstacles that NCLB presents to Indian communities, who often live in remote, isolated and economically disadvantaged communities. There is no one more concerned about accountability and documenting results that the membership of our organization. But the challenges many of our students and educators face on a daily basis make it difficult to show adequate yearly progress or to ensure teachers are the most highly qualified.

The requirements of the statute and its timeframe for results do not recognize that schools educating native students have an inadequate level of resources to allow for the effective development of programs known to work with native students. For example, the appropriation available under Title VII of No Child Left Behind provides only a few hundred dollars per student to meet the special education and culturally related needs of our students.

The implementation of the statute does not include within the definition of "highly qualified teacher," the idea that teachers educating native students actually have the training and demonstrated experience in order to be effective teachers of native students. Not only is there inadequate funding for No Child Left Behind, there are serious concerns about confused guidance on adequate yearly progress mandates, inadequate assessment examples for limited English proficient students, weakened protections to prevent high school dropout rates to occur, a lack of focus on parental involvement, recognition of para-professionals' qualifications, and a basic denial of civil rights protections for children.

The fiscal year 2005 President's budget leaves Indian children behind. As I heard this morning, I think you are all aware of that. President Bush's budget proposes a 4.8-percent increase to education, $266.4 billion in total budget authority for the Department of Education. But Indian program funding remains at the same level as 2004, with some programs slated for elimination.

In addition, $120.9 million for fiscal year 2005 is down from the fiscal year 2003 level of $121.6 million. The request for Alaska Native education and Native Hawaiians is capped at $33.3 million for each group, or at the same level as 2004. Native communities are not only denied equal access to a quality education at fiscal year 2003 levels, they are now asked to shoulder an even more atrocious burden by being subjected to even deeper cuts.

The fiscal year 2005 Department of Education budget request: Nearly 90 percent of the approximately 500,000 Indian children attend public schools throughout the Nation. Indian students who attend these schools often reside in economically deprived areas and are impacted by programs for disadvantaged students. The President's 2005 budget fails to fully fund the title I low-income school grants programs critical to closing achievement gaps. An increase of $1 billion for this program still leaves more than $7 billion below the authorized level for No Child Left Behind.

The Individuals with Disabilities Education Act, or IDEA, is proposed to be funded at less than half the full funding level when IDEA was first adopted in 1975. These inadequate increases also eliminate 38 education programs that provide vital services to Indian children such as dropout prevention, gifted and talented education, school counseling, and after school programs, to name a few. If the fiscal year 2005 budget is enacted, the proposed increase of 4.8 percent would be the smallest increase since 1996 and would complete disregard Native students' critical needs.

The Department of the Interior budget request is proposed to be cut 0.5 percent. Within that budget, there is a $52-million reduction in funding for the BIA, reducing that agency's budget by 2 percent, to $2.3 billion.

We talked about Indian school construction funding. During President Bush's first term, he promised to remove the backlog of new Indian school construction. Within the 2005 budget, Indian school construction funding is proposed to be cut $65.9 million from fiscal year 2004's appropriation of $229.1 million. The rationale is the Office of Management and Budget wants more schools completed and the rate of school construction has fallen behind. This can be due to a number of factors, including bureaucracy delays, contracting delays or weather conditions.

I wanted to also point out that it may be coincidental, but this cut is the same amount of funding that has been appropriated or set aside for Indian trust fund accounting. It has been increased by $65 million, the same amount as the construction funds have been cut.

We urge you to ask the Bureau of Indian Affairs to get its house in order, to step up this process and to urge the restoration of school construction funding that is necessary to meet the needs of Indian students.

Indian education facilities improvement and repair funding: The continued deterioration of facilities on Indian land is not only a Federal responsibility. It has become a liability of the Federal Government. The 2005 budget request cuts facilities improvement and repair by $6.1 million, from $137.5 million. There is a known backlog of hundreds of millions of dollars in critical repair needs. It could be stated in the billions.

We urge not only restoration of funds to the fiscal year 2004 level, but an increase that will realistically address the needs of Indian children who must try to learn in buildings that are not conducive to learning. It is unfair to hold Indian children hostage in their right to a successful education.

The Impact Aid Program directly provides resources to State public schools, school districts with trust status lands within the boundaries of a school district for operational support. That program funding is slated to remain on the same level as fiscal year 2004. Of course, as we heard earlier, we are very disappointed that tribal colleges and universities funding has been reduced by $5.8 million, and we request that level be restored as well as the United Tribes Technical College.

In addition to that, NIEA requests additional funding needs, and of course we are underfunded, as we know. We are asking that for the first time in history that tribal departments of education be funded. True success can be attained only when tribes can assume control of their children's educational future. As mandated in many treaties and as authorized in several Federal statutes, the education of Indian children is an important role of Indian tribes.

The authorization for TED funding was retained in Title VII of the No Child Left Behind Act. Despite this authorization and several other prior statutes, Federal funds have never been appropriated for tribal departments of education. Achieving tribal control of education through TEDs will increase tribal accountability and responsibility for their students and will ensure tribe's exercise their commitment to improve the education of their youngest members.

For fiscal year 2005, we are requesting a total of $3 million, or $250,000 per tribe for 12 tribes, to initiate the process of their education departments and to finally begin the process of empowering them to direct their own educational priorities that reflects their linguistic, cultural and social heritage and traditions.

On the Native American Languages Act, Senator Inouye has been a champion of this. The preservation of indigenous languages is of paramount importance to Native communities. It is estimated that only 20 indigenous languages will remain viable by the year 2050. We must begin the legislative process to ensure there is some substance in the Native American Languages Act for projects that address the crisis of our language losses.

NIEA urges this committee's support for additional funding that will address language needs of communities with less than a handful of elderly fluent speakers. NIEA, in partnership with other organizations, is willing to assist in the identification of needs and funding required for this process to begin.

One final request, John O'Malley funding. In 1995, a freeze was imposed on Johnson O'Malley funding through the Department of

the Interior, limiting funds to a tribe based upon its population count in 1995. This freeze prohibits additional tribes from receiving JOM funding and does not recognize increased costs due to inflation and accounting for population growth. NIEA urges that the Johnson O'Malley funding freeze be lifted and other formula-driven or headcount-based grants be analyzed to ensure tribes are receiving funding for their student population at a level that will provide access to high quality education for Indian students.

Finally, NIEA respectfully urges this committee to truly make Indian education a priority and to work with the congressional appropriators and the Administration to ensure that Indian education programs are fully funded. We encourage an open dialogue and are willing to work with you to build a more reasonable and less punitive approach that takes into account our experience in Indian education.

NIEA was instrumental in helping with the passage of the Indian Education Act of 1972 and assisted the Congress at that time in conceiving ideas and recognizing the need for improvement in the effectiveness and quality of education programs for Native students. Please join NIEA and other organizations established to address the needs of Native students, to put our children at the forefront of all priorities. We must work with the Bureau of Indian Affairs, the Department of Education and tribal leaders to ensure our children are not left behind.

Without acknowledgement who are our future, our triumph and our link to the past, there is no need for tribal sovereignty's continuation.

Thank you.

[Prepared statement of Ms. LaMarr appears in appendix.]

The CHAIRMAN. Thank you, Cindy.

We will now go to Mr. Sossamon.

STATEMENT OF RUSSELL SOSSAMON, CHAIRMAN, NATIONAL AMERICAN INDIAN HOUSING COUNCIL

Mr. SOSSAMON. Thank you, Chairman Campbell, Vice Chairman Inouye and other distinguished members of the committee. On behalf of the members of the National American Indian Housing Council and its board of directors, I would like to thank you for this opportunity to address you today on the President's proposed budget for fiscal year 2005.

As chairman of NAIHC and executive director of the Choctaw Nation Housing Authority of Oklahoma, I was disappointed with the President's proposed budget this year. This is the 4th year in a row that it does not include any increases for Indian housing. Inflation has risen steadily, as well as construction costs, compounding it with a growing Indian population.

The threat of funding cuts continues to intensify for all domestic programs. We are happy to avoid any cuts, but we are not so grateful as to just accept what we are granted in the face of brutal realities in Indian country.

Throughout this hearing and your continued examination of the President's budget, we hope you will keep our concerns in mind. NAIHC believes that $700 million is the minimum that should be appropriated for Native American housing for fiscal year 2005. The

president has proposed $647 million. This is roughly the same amount that has been appropriated for the last 4 years.

Given the rate of inflation and increased housing costs, housing funding has actually decreased under this Administration. Based strictly on inflation, the Indian housing block grants should receive at least $713 million for fiscal year 2005, an amount that would be a true flatline of funding, and not actually an increase.

We understand that this committee in particular has been frustrated with the lack of hard data to support yearly budget requests for Indian housing. We share your frustration. You may remember that last year, HUD's Office of Native American Programs underwent a performance assessment through the Office of Management and Budget. ONAP received a poor score, due mainly to its lack of data, therefore its inability to measure performance.

We had hoped this assessment would lead to a swift implementation of a data collection system that would allow for tribes and HUD to demonstrate the progress that has been made and the unmet need. HUD collects data yearly in an Indian housing plan and annual performance reports on such items as the number of overcrowded units, the number of housing units constructed, and the number of housing units rehabilitated. Unfortunately, HUD does not have a data base that can pull this data together to give a national picture.

Since we at NAIHC know that this data could be key to increased appropriations, we have decided to embark on our own comprehensive data collection. A survey will be sent to all tribes across the country in March that will seek to collect the kind of information required to show both what NAHASDA has accomplished, but also identify the current housing needs. We hope to report back to this committee by the end of May with the facts and figures on the use of Federal funding from various agencies, as well as a report on services and banking opportunities that are currently not available to tribes.

However, without this data on hand for the beginning of this budget process, I would like to illustrate for you how the proposed block grant amount would be used and why an increase is needed. This illustration was provided by one of ONAP's housing administrators during a meeting earlier this year. The funding factors in these figures are approximate: $647 million for the fiscal year 2005 block grant. Subtract from that $7.5 million for set asides, less 20 percent for administration expenses allowed under NAHASDA, less 30 percent for current assisted stock, which is to maintain the homes developed under the 1937 Act, leaves us with only $320 million available for new housing construction.

With an average cost of $125,000 per unit, tribes should be able to build approximately 2,550 new units of housing nationwide. According to the census, more than 40,000 Indian houses are overcrowded. That is more than 1.1 persons per room. So at 2,550 units a year, it would take nearly 16 years to address only one of the seven need factors used under NAHASDA to determine need, overcrowding if funding and costs remain constant. This may be an oversimplification of the situation, but it shows that progress, while steady, is slow to meet the need.

I would like to refer you to my written testimony on the discussion of other vital Indian housing programs, including the community development block grant, rural housing and economic development program, and BIA housing.

Because of the short time today, I must finish with a discussion on technical assistance. The President has proposed technical assistance funding for the implementation of NAHASDA in fiscal year 2005 by eliminating $2.2 million in set asides for NAIHC, which supplements HUD's technical assistance funding of $5 million. In spite of the same budget request last year, Congress chose to fund NAIHC's efforts in the final fiscal year 2004 appropriation in the amount of $2.2 million. We would like to see the same happen in 2005.

NAIHC also receives set asides from the community development block grant for a total of $4.7 million in fiscal year 2004 for both grants. The Administration has proposed $2.48 million for NAIHC in 2005.

HUD's Native American block grant is not an easy program to administer if you have no experience with it. For tribes with extremely limited funds and/or limited experience, it can be daunting and trying to effectively use the NAHASDA block grant funds. In particular, small tribes across the country are in desperate need of alongside support and training.

HUD is simply unable to address this need when their job is to administer and provide oversight for the program. Using the $2.2 million Native American housing block grant set aside in 2003, NAIHC provided 430 scholarships to attend NAHASDA-related training opportunities offered by NAIHC and HUD. We facilitated five mentoring trips utilizing the expertise of one tribe to demonstrate and mentor for another. We offered 29 free classroom sessions in 10 different subject matters relevant to Indian housing; 780 students received training on 23 subjects during two of NAIHC's annual meetings.

We have coordinated four policy development workshops for 136 individuals to develop NAHASDA complaint policies. We provided free board of commissioner and tribal council training to 30 tribes. We have developed five technical assistance documents, including a set of model construction documents, an executive director's orientation manual, and three sample policies that deal with collections, compliance, procurement and property acquisition.

All of these have been or will soon be approved by HUD and will be reproduced and distributed free to tribes and TDHEs. So as you can see, NAIHC's Native American housing block grant set aside is being put to good use and is being applied right where the tribes need it to implement NAHASDA.

Using the CDBG technical assistance funding, NAIHC provided on-site technical assistance to over 162 tribes in 2003 alone, supplemented by more than 365 e-mails and phone calls. Approximately 530 tribal housing staff attended training courses as part of NAIHC's leadership institute, separate from all the other courses that have been mentioned above.

Despite all this good work, NAIHC's funding has been cut in half by the President's budget. Tribal capacity will improve only when there is training and other assistance provided. NAIHC has shown

precisely how it uses its Federal funds for the betterment of these housing programs. Has HUD been able to show the same amount of support for the tribes? We have seen no similar breakdown in services by HUD, and believe that the tribes will suffer if only HUD is there to provide this assistance.

We are therefore requesting that full funding of $4.8 million in fiscal year 2005 for NAIHC technical assistance, which would ideally all come from the community development block grant program, so as not to compete with tribes for scarce housing dollars out of the Native American Indian housing block grant.

Mr. Chairman, during this hearing last year, you had a question about fetal alcohol syndrome and what can be done to prevent it in tribal communities. One way to prevent alcoholism is to provide hope for the future. What hope can there be when you are living in a home with 25 other people, having no running water and no electricity? When people live in those kind of conditions, we see commonly in tribal areas there is no hope.

Strictly on the basis of human need, shelter is number three in the hierarchy. Let's go to the core of the problem of this epidemic in the tribal communities, including alcoholism, and address the basic safety and comfort for shelter. Funding appropriated for health care and education, while important, goes much further when the base need of shelter is met. Absent adequate housing, you are discounting your investment in these other two areas.

I would again like to thank all of the members of this committee, in particular Chairman Campbell and Vice Chairman Inouye, for their continued support for the tribes and Indian housing. NAIHC looks forward to working with each of you for the rest of this session of Congress and I will be happy to answer any questions.

Thank you.

[Prepared statement of Mr. Sossamon appears in appendix.]

The CHAIRMAN. And last, Gary Edwards.

STATEMENT OF GARY EDWARDS, CHIEF EXECUTIVE OFFICER, THE NATIONAL NATIVE AMERICAN LAW ENFORCEMENT ASSOCIATION

Mr. EDWARDS. Chairman Campbell, Vice Chairman Inouye, distinguished committee members, tribal elders and leaders, my name is Gary Edwards. I am the chief executive officer of the National Native American Law Enforcement Association and the vice chairman of the Native American National Advisory Committee for Boys and Girls Clubs of America.

The National Native American Law Enforcement Association was founded in 1993. Its membership is made up of Native American and non-Native American women and men in law enforcement and individuals that are not in law enforcement. The association cultivates and fosters cooperation and partnership between Native American law enforcement officers, agents, their agencies, private industry, tribal industries and the public. NNALEA's goal is to give back to the communities from which we come.

I have prepared my testimony and written statement today and I ask that it be accepted by this committee.

The CHAIRMAN. It will be included in the record.

Mr. EDWARDS. Thank you.

With regard to the fiscal year 2005 budget, NNALEA believes that it is necessary for funding for Indian programs critical to tribal sovereignty, stability, infrastructure and quality of life to be at least maintained at the minimum funding levels of today, with additional funding levels necessary for programs essential to maintain national security strategies and objectives, such as the national homeland security defense strategy and the Federal enterprise architecture.

NNALEA also believes that two specific categories of Indian programs warrant special discussion today. The categories are tribal law enforcement, public safety and homeland security, and tribal youth. In my remaining time, I will briefly highlight some of the risks and potential solutions for each category.

First, tribal law enforcement, tribal safety and homeland security. The risk, drugs. Approximately 80 to 90 percent of crime in Indian country derives from some form of illegal substance or alcohol abuse. Violent crime: Native Americans are 2.5 times more likely to be a victim of a violent crime than non-Native Americans. The violent crime rate for Indian country in 2002 was 49.8 percent higher than the national average. Gang activity is rampant on some tribal reservations.

Public and officer safety. It is not uncommon for an officer to wait more than 3 hours for backup. Officer backup is not only contingent on the availability of another officer, but also on the ability and capability to transmit the call for assistance via radio or telephone.

Tribal homeland security vulnerabilities. Southwest and northern tribal border areas have been historically known for smuggling of narcotics, illegal immigrants and trafficking in various other items of contraband. The significant increase in border crossings today not only has caused a drain on tribal law enforcement focused toward protecting our homeland, but also has caused a drain on our Indian Health Service hospitals. The significant border crossings with regard to the Tohono O'odham Reservation has cost this year alone in excess of $200,000 of unfunded care. Tribal border security is clearly a priority on everyone's short list.

Now I will give a potential solution snapshot for the areas of concern and risk. Drugs and violent crime. We must increase the number of drug enforcement officers in Indian country. Also, we must increase the number of BIA and tribal law enforcement officers to perform public safety and regular law enforcement functions. Also, we must conduct training with regard to drugs and violent crimes in Indian country such as NNALEA has conducted at their last three national conferences and plan to do so again this year at our 2004 national conference.

Public safety and officer safety. A program like the COPS office, the Community Oriented Policing Program, provides not only infrastructure for law enforcement in Indian country, but it also provides manpower. It is essential that a program like that exists and continues to move forward.

Tribal law enforcement and public safety officials need to be at parity with their non-tribal counterparts in areas of pay, benefits, equipment, training and technical assistance. In turn, Indian country law enforcement needs to improve the quality of its law enforce-

ment level of performance to parity with that of non–Indian law enforcement organizations.

NNALEA will help Indian country achieve this goal of parity by developing better training on a national area, and also through our development of the academic center for excellence in education and training and technical assistance for Indian country.

The ACE program has members from NNALEA, Fort Lewis College of Durango, CO, East Central University of Oklahoma, the Federal Law Enforcement Training Center Distance Learning Program, the Boys and Girls Clubs of America, and the Federal Bureau of Investigation Visual Training Academy. This particular program will today increase our ability to train and maintain officers with current techniques utilized today to fight crime and to protect our homeland.

Currently, ACE partners are seeking to develop an interoperable satellite communications system for tribal and rural law enforcement officers, public safety, and emergency responders to utilize. Testing has already been successfully done at the Navajo Reservation.

Tribal corrections programs in correctional facilities are in great need of funding support for quality, culturally sensitive corrections programs, and funding sufficient to build new facilities, modernize current structures, and maintain adequate professional staff.

Tribal homeland security vulnerabilities. Today, the National Native American Law Enforcement Association has developed and presented a seven-phase approach to tribal lands homeland security. The approach will encompass Native Americans in the continental United States, Alaska and Hawaii. The National Congress of American Indians is partnering with NNALEA and the Department of Homeland Security to conduct a tribal border pilot project. The project will be an assessment-type project and this particular type project needs to be moved to other parts of Indian country as soon as possible.

Another very positive movement is that the Department of Homeland Security has reserved a position on the table with other national, State and local representatives for the voice of the development and writing of a national incident management system, which is the NIMS, and the rewriting of the national response plan. This gives Indian country a voice at the table and can have great impact upon our ability to cooperate with Federal, State local police and emergency response organizations in the future.

The second area I would like to briefly discuss is tribal youth. First, I will go over the risks. The risks that tribal youth are looking at today is that American Indian and Alaskan Native mortality from alcoholism is over 10 times the rate of all races in the United States. Also, between 1990 and 2001, there has been 106 percent increase in diabetes for the American Indian and Alaska Native age group from 15 to 19.

Violent crime. Native American teenagers are 49 percent more likely to be victims of violent crime than non–Native American teenagers. There are approximately 375 Native American-based gangs with approximately 6,000 members and associates in Indian country. Much of their illegal activity goes on on reservations unchecked.

In 1999, approximately 2,000 American Indian and Alaska Native youth were being held in juvenile residential facilities across the country. That number increased by eight percent by the year 2001. Some potential solution snapshots for that particular problem are the Boys and Girls Clubs of America. The Boys and Girls Clubs of America had one club in Pine Ridge in 1992; today we have 171 clubs across Indian country. We serve approximately 70,000 Native American youth in 22 States, representing 77 different American Indian, Alaska Native, and Hawaiian communities.

Recognizing the economic impact on Indian reservations, the Boys and Girls Clubs of America has established the Native American Sustainability Fund to enable the clubs to be sustained on Indian country. NNALEA recommends that these funds be designated that would help the BGCA sustain critical Indian clubs.

Another program that was very effective in a pilot program last year was from the Bureau of Alcohol, Tobacco and Firearms. It as the Gang Resistance Education and Training Program that was piloted on seven reservations across the United States. It was a true success for Native youth in tribal communities. Tribal youth established new relationships with law enforcement officers, community leaders, parents, club staff, and they acquired new skills in resisting gangs.

The Indian Health Service partnered recently with the National Congress of American Indians and Boys and Girls Clubs of America to develop a more active role in healthy lifestyles and keeping American Indian and Alaska Native youth in school.

Another program of note from last year is the Helen Keller ChildSight program which conducted a vision screening for a group of Native American children ages 10–15. As a result of that, they found that there was an astonishing refractive error rate of 37.7 percent in Native American youth. The refractory rate for the average across the country is 11 percent to 20 percent.

In closing, funding is very important to the success of the programs I have mentioned. It is NNALEA's belief that it is for necessary funding for Indian programs critical to tribal sovereignty, stability, infrastructure and quality of life to be at least maintained at the current level, while additional funding may be necessary for Indian programs essential to national strategies and objectives.

Thank you, and I am happy to answer any questions you may have.

[Prepared statement of Mr. Edwards appears in appendix.]

The CHAIRMAN. Thank you.

Let me ask a few and I will submit some for the record, too. Since you are the last one that spoke, Gary, a few years ago I was the speaker at Reno at your national convention. I have to tell you, I was really impressed with the professionalism and the type of training that the law enforcement officers go through and their ability to interact with other agencies, too.

You mentioned several things I wanted to get your reaction to. You know that Indian law enforcement has the ability like any law enforcement to tap into Federal programs like what is called the CETAC program, which is transfer of Federal technology and apparatus like drug-sniffing apparatus, things of that nature. Tribes have that authority, you knew that, and also by the way bullet-

proof vests, you mentioned that in your testimony. They can also avail themselves to those, too.

You also mentioned that you are working with several colleges now. I remember we talked about Fort Lewis once before. How is that program going? Are they actually offering some classes now to help what you do?

Mr. EDWARDS. They were very helpful in our 2003 conference in November in Fort Worth, Texas. We actually put on a presentation regarding the Academic Center for Excellence where we had eight different pilot sites across the country that were utilizing distance learning. We had all of our partners there from Fort Lewis, East Central University, the Federal Law Enforcement Training Center, NNALEA and Boys and Girls Clubs of America. We interchanged during a learning session during that period of time.

Then we had a special class after that for those in attendance and via the satellite communication regarding legal updates put on by the Office of Tribal Justice. So it is on the way. It is going.

Also, as a result of that partnership, we were able to give 53 people in attendance at our national conference two hours of full college credit based upon the curriculum and their qualifications through this group of the Academic Center for Excellence.

The CHAIRMAN. Good.

We have also had a number of tribes coming in that have land bases that border either Canada or Mexico, that have talked to us about trying to define a little better relationship on the homeland defense bill that we passed, and making sure that they retained tribal sovereignty, too. It is something that we are aware of and we are trying to work on. I just wanted to pass that on to you.

Cindy, let me ask you a couple of questions next. First of all, did you say you were Pit River?

Ms. LAMARR. Yes; I am one-half Pit River, one-half Paiute. I reside in Sacramento.

The CHAIRMAN. You work from Sacramento.

Ms. LAMARR. Yes.

The CHAIRMAN. Did you know the Preston family, the Lucky Preston family of Pit River?

Ms. LAMARR. Sure.

The CHAIRMAN. Thirty years ago, I taught him when he was a youngster in Indian art classes. After he was married, they named their son Ben Nighthorse Preston. Wasn't that nice of him? [Laughter.]

He is about 14 now and we have sort of a pen pal. He writes me and tells me how school is going and the classes he is taking and his activities. I just really was honored that they would do that. It is kind of the Indian way, or something, but it was very nice of them to do that.

Ms. LAMARR. I will be sure to name my next grandchild after you. [Laughter.]

The CHAIRMAN. That would be nice.

Ms. LAMARR. Hopefully it will be a boy.

The CHAIRMAN. However, I do not know of a Dan Inouye Thunderhawk or something of that nature. Perhaps we ought to reserve that honor for my vice chairman here. [Laughter.]

Let me talk to you a little bit about the No Child Left Behind Act. As I understand your testimony, you believe that the NIEA does believe in accountability and documenting results, but the No Child Left Behind Act is not the proper vehicle to be able to do it. Could you tell the committee how the NIEA would introduce accountability and measures of effectiveness into the education of Indian children, which you believe in, that would be done in lieu of the No Child Left Behind Act, if that is the wrong way to go?

Ms. LAMARR. I don't know that we can supersede the No Child Left Behind Act, but our tribes and public schools that serve American Indian and native students are trying to meet the mandates of the law. But because of the many problems such as isolation, low economic factors, and also that teachers that teach on reservations are very hard to come by, that really want to live and teach on a reservation, causes a problem.

I think overall, there are problems with No Child Left Behind for all public schools, but particularly with Indian communities it poses a huge problem. I guess I am not asking for an alternative. I am asking for some special exceptions.

The CHAIRMAN. We have heard from literally everyone on the panel that our funding is inadequate in the President's budget, and we understand that. I am sure you believe that in educating for Indian kids, as we believe too, should be fully funded, but we do not have a dollar figure. I did not hear you suggest a dollar figure. What do you think that the BIA needs in order to do the job right?

Ms. LAMARR. That is a good question.

The CHAIRMAN. Do you have a good answer?

Ms. LAMARR. Billions. [Laughter.]

What I have heard is that the backlog of repair needs for Indian schools is about $2 billion.

The CHAIRMAN. How much did you say?

Ms. LAMARR. About $2 billion.

The CHAIRMAN. About $2 billion.

Ms. LAMARR. When you factor into many areas such as inflation and the cost and deterioration, I think that we can't even begin.

The CHAIRMAN. I think that is one of the problems we face, that we are not doing a real good job with education money. There is no doubt in my mind.

Ms. LAMARR. No.

The CHAIRMAN. But the needs seem to be going up faster even if we put more money in. The growth of youngsters on the reservations has just, we literally have a population explosion, as you know. We are well aware that we are not doing a very good job in keeping up with the education of our youngsters.

Ms. LAMARR. The fact that our Indian communities are increasing in numbers is a good thing. But the fact that education numbers and dollars are decreasing is not good. It is a terrible tragedy.

The CHAIRMAN. I understand that.

Mr. Sossamon, you stated that at least $1 billion in annual funding is needed for Indian housing. Are any other factors being considered in reaching that amount, other than needing more money from the Federal Government?

Mr. SOSSAMON. Yes, sir; what we believe is that there is ongoing now a vigorous effort to access not only other Federal programs,

but to utilize travel funding, to utilize the tribes' bonding capacity, and expand the tribes' bonding capacity, to work through tax exempt bonding, through the State agencies; also to leverage private dollars. We are working with a number of entities, both private financial institutions and Fannie Mae and Freddie Mac, Wells Fargo, to name a few, to bring private dollars.

The CHAIRMAN. That is all well and good if the tribe is financially secure and has natural resources or casino money or something. But those tribes that are really poor, some of those opportunities just do not present themselves for poor tribes.

Mr. SOSSAMON. Absolutely. The reason that we believe that Federal investment needs to increase to the $1 billion level is to address inadequate infrastructure, to allow tribes to develop on their own.

The CHAIRMAN. Yes.

Mr. Kashevaroff, coming from a long way off in Alaska, can you tell the committee to what degree that telemedicine usage is done in Alaska, or whether this is an area that we ought to focus on with the limited funds that are in the President's budget?

Mr. KASHEVAROFF. Thank you, Mr. Chairman. Alaska has implemented a telemedicine project over the last 5 or 6 years. We have telemedicine carts in about 170 Alaska villages. the utilization has been increasing every day. We basically worked out the framework of where to transfer the images to and how to read them and everything like that. We have quite a few good success stories now of villages that where the weather is bad and no one can get out, that doctors have been able to use the telemedicine system to help the patient out and even save lives.

It has been pioneered in Alaska, and really needs to be shared throughout the Nation. We basically have a system that is ready to be shared throughout IHS and we have already had some requests for maybe even overseas to be able to come and use the same type of system. So we are ready to share that, and it is pretty much mature, and it just really comes down to the amount of funding.

The CHAIRMAN. I am not aware of how much other tribes use telemedicine, but I have seen a little bit of it in Montana. It seems to me it is a real wave of the future. Would you say that Alaska is on the leading edge of that, using telemedicine?

Mr. KASHEVAROFF. Yes; I believe we are on the leading edge of it. Yes.

The CHAIRMAN. Tex, funding for historical accounting, your testimony takes issue with $110 million for historical accounting, without what you call "mutually acceptable parameters". I jotted that down on how to undertake the task. We wanted to find out, what is "mutually acceptable parameters"? Is that the agreement that we are trying to get?

Mr. HALL. Right, right. We wanted to work with the committee in terms of how we go about historical accounting, especially with the 1-year moratorium with the rider that was passed in the last fiscal year through the appropriations.

And then to see that in this budget without coming to any kind of an agreement about the parameters of how to do that is the issue that we were raising, Mr. Chairman. So again, I think that

is very important as we move forward on this very, very important initiative and very costly initiative, that we work together collectively to define that. So I think we can actually save dollars, but it is just puzzling to see that again without any kind of an agreement on how to go about it.

The CHAIRMAN. We are trying to make that a priority to get that settle this year, so that the appropriators do not try and take it away from us like they did last year. We have talked about this before, that we really need to get our shoulders collectively to the same grindstone and get some solution to it. I hope that NCAI will really help us this year on doing that.

Mr. HALL. We are 100 percent in support of the committee wanting to move forward. This is the appropriate committee, and not through the appropriations to try to legislate anything.

The CHAIRMAN. Something else came up to my mind when Senator Conrad was speaking, and Senator Dorgan. It seems like every year something comes up about the United Tribal Technical College, why the Administration does not support it or fund it properly. What is different about that school than other schools? Is there something that we are not aware of that we need to change legislatively?

Mr. HALL. My understanding is that their budget is in kind of like what they call a special pooled overhead, so it is discretionary, versus a permanent line item in their budget.

The CHAIRMAN. Why was that school put into a discretionary category?

Mr. HALL. I am not certain what the history on that was, but United Tribes and Crown Point from New Mexico are both of those special pooled overhead. We have been asking for that permanent line item for quite some time.

The CHAIRMAN. Is Haskell also in that category?

Mr. HALL. No; Haskell has a permanent line item. So Secretary Norton came out in 2002 and Neil McCaleb, assistant secretary at that time, both agreed that United Tribes has nearly 600 students; they have a high graduation rate; it is a very important part of the whole tribal college initiative and does a great job. We were led to believe that it was going to find a permanent line item in the budget, but evidently it has not.

Senator CONRAD. Mr. Chairman.

The CHAIRMAN. Yes; I did not see you come back in. I am glad you did. I was just asking about this.

Senator CONRAD. Yes; which I appreciate very much. Maybe I could explain what we have been told is the problem, because it is a catch-22 if ever there was one. This institution is owned by five tribes. As a result, they do not qualify for Tribal College Act funding. The Tribal College Act requires that you only have one institution per tribe. This is owned by multiple tribes.

The CHAIRMAN. So we can pro-rate it or do something.

Senator CONRAD. What they say is, look, we want it funded by the Tribal College Act, but the Tribal College Act specifically precludes funding of this institution because it is owned by multiple tribes.

The CHAIRMAN. The Tribal College Act is up for reauthorization this year. This would be an opportunity for you to work with us,

and Senator Inouye, and I know Senator Dorgan, between our collective staffs, maybe we can change it in the act so we do not have to keep dealing with it every year and it would be a line item like the rest of them.

Senator CONRAD. We would certainly appreciate that, Mr. Chairman. We would look forward to working with you to solve this problem.

The CHAIRMAN. Good. Okay.

Senator Inouye, I yield to you if you have questions.

Senator INOUYE. Thank you very much.

STATEMENT OF HON. DANIEL K. INOUYE, U.S. SENATOR FROM HAWAII, VICE CHAIRMAN, COMMITTEE ON INDIAN AFFAIRS

Senator INOUYE. Mr. Chairman, I have been a member of this committee now for 27 years. Of those years, I have served and I have had the honor of serving as either chairman or vice chairman for 17 years. Throughout those years, I have sat on this panel and listened to hundreds of stories of pain and shame, of discrimination, of broken promises. I have heard stories of the high rate of diabetes, the worst in the United States; in fact, worse than some of the third world countries; of the number of amputees and the blind.

I have heard horror stories of glaucoma, where the rest of the population has never heard of it, but in Indian country it is commonplace. I have heard of the suicide rates among Alaskan teenagers, seven times that of the national norm. I have heard of drug abuse, substance abuse in Indian country, about 50 percent higher than the rest of the Nation, and yet we have only 11 DEA agents.

I have heard all of these stories. I have heard stories of cancer, of heart disease. I have heard stories of spending $4,500 per student in our community colleges. At the same time for African American students at Howard University, under the same type of program, over $20,000.

It is a good story to tell, but these are some of the best kept secrets that I know of. These walls have heard all these stories. We have heard these stories. The record would show these stories, but who reads those records? How many of you read the Congressional Record? We give eloquent speeches on the floor, but I doubt if five of you read the Congressional Record. So you can imagine how many people read the Congressional Record in the United States.

At the same time, we know that more Native Americans have volunteered and put on the uniform of this Nation since World War I than any other ethnic group. Even today, more Indians die, more casualties among Indians. Yet how many Americans know about this? The land that we reside on belonged to the Indians, but we take that for granted.

So Tex Hall, I have a little suggestion to make. How about forming a task force on public relations and information, so we can get all the motion picture people, the public radio people, the PBS people, producers and such, and maybe we will hit the goal, get them excited, let the others know about your problems. We know about it. We try to convince our colleagues and frankly they could care less. I hate to say this, but you look at this panel here. There are three of us, and we are handling your budget, the three of us.

So this story must be told so that decisions are made because it is politically correct. It is sexy. Right now, the Commerce Committee is having a hearing on indecency, violence, and sex on television. I can assure you that room is filled with cameras and filled with members. I am a member, but I am sitting here.

So let's get down to work. We have a story to tell, a good story. It is about time the rest of America finds out.

Thank you.

The CHAIRMAN. That is a terrific idea, Tex. You know, after those very derogatory stories came out about Indian gaming in Time, you read them, the National Indian Gaming Association did just that. They started putting together a public relations effort with packets that went out to members of Congress and to educators, to the news media and so on. I think they have done a really good job.

As Senator Inouye said, it is a story that we try to tell, but we cannot do it alone. We always fight for you and try to fight for money for Indian programs, but part of the responsibility has to be on Indian people to get that story out, too. Not just when a good movie comes out like Dances With Wolves or something, we need an ongoing effort all the time.

You have to remember, around here every 2 years, a whole bunch of people are not here again. The whole House is up for reelection and one-third of the Senate every 2 years. So you have a constant change of faces here, and with the exception of people like Senator Inouye who has literally dedicated his life to helping Indian people, a lot of them that are here this time are not going to be here next time. It is as simple as that. They go on to other things or they lose or something.

So you have to have a constant ongoing drum-beat every single time, every 2 years, that same kind of an educational process has to take place back here. Because Senator Inouye is absolutely right. We put things in the Congressional Record, and even our colleagues don't read most of them. So I certainly recommend that.

Mr. HALL. Mr. Chairman, just briefly. Senator Inouye and Chairman Campbell, I definitely agree with it and I would even further add to it that it needs to be a permanent task force, because as you mentioned, there is turnover all the time that occurs. We want to take that challenge up. We have been talking about this for a long time.

Senator INOUYE. And I want to serve on it.

Mr. HALL. We would most appreciate it. And then the Grammys that came out just the other day, was it Sunday night? I was ashamed to see that they said there was no, speaking of the Commerce Committee, there was no hanky-panky at the Grammys, but the Outcast that won the record of the year I think insulted Indian tribes. Somebody had a fake war bonnet. Speaking of selling sex on TV, they had scantily clad female dancers with green turkey feathers. It was a mockery of our culture. But the headlines were that Grammys pulls off without a scandal, real tame, and nothing was wrong. That is not right.

So again, we need to have a public relations effort, and we are going to write a letter to the Grammys and to the FCC Chairman, Mr. Powell, and talk about that very issue. It is not acceptable to criticize and mock Indian culture.

The CHAIRMAN. No; it is a big question and it deals with a lot of things like mascot names and all the other stuff that we have dealt with for years. But a lot of the momentum has to be developed within Indian country to say enough is enough.

Mr. HALL. Exactly.

The CHAIRMAN. Senator Conrad, did you have any questions?

Senator CONRAD. Please, I do, Mr. Chairman.

Let me just say that we know the needs in Indian country in housing and health care and education and law enforcement are enormous. They are far greater than is being met by this budget. That is a fact. The population with the greatest needs in the United States are Native American people.

Yet with this budget, once again they are getting short shrift, short-changed. The needs are not being met. In fact, the needs are growing more dramatically in the Indian population than in other populations, but the budget is going the opposite way.

So what will be the result? Housing will deteriorate. Schools will decline in quality. Health care among Indian people will be worse. That is the truth of the matter. It is really very dramatic. I go to the Indian Health Service first. The budget there is almost $3 billion, $3 billion. The increase asked for is 1.5 percent, $45 million. Medicare, much larger budget, is being increased by almost 9 percent, 8.8 percent.

You can see if you would provide for an increase in Indian Health Care in the same way as is being provided for in Medicare, reflecting increased utilization and reflecting increased health care costs, it would not be a 1.5 percent increase. If it was Medicare, it would be 8.8 percent. That is seven percent more; seven percent of $3 billion is another $200 million. Still you would be nowhere in the ballpark of the need. The needs-assessed budget that has been put together says the need is not for $3 billion or $3.2 billion, if we got the same increase that Medicare is getting. The need is $19 billion.

For anybody that has gone to Indian country and seen the health care needs, they are crushing, whether it is diabetes, as was referred to by our distinguished ranking member, or whether it is suicide, which he also referenced with respect to Alaska. I can tell you we have an epidemic of suicide in my State of North Dakota. At the Standing Rock Sioux Tribe, we have had an epidemic of suicide. Why? Because Chairman Hall said it well, it is a lack of hope.

When you go to a school and that school you can't hear yourself think because there is no division between the classrooms, that is the high school at Standing Rock, designed by apparently an architect in the Southwest who had no clue about North Dakota winters. So in one part of that building it is 80 degrees; in another part it is 50 degrees, and there are no separations in the classroom. You can't hear yourself think. How are you going to have a chance to learn in a setting like that?

In housing, I go to Turtle Mountain Reservation 2 years ago, I would say to my colleagues, and I was taken into a series of homes that had mold infestation that was so incredible I literally gagged. And those who were with me, some of them retched on the floor. The power of the odor was so overwhelming. We went down in the crawl spaces of those houses and there was 4 feet of water.

And the people were sick. They had a type of mold that kills people. It is a black mold. And you know, we got a little bit of money to build a few new houses, but the fact is there are still thousands of people living in those conditions. The children die in those homes because of that mold. It causes respiratory failure.

You know, this all says something about what we are as a Nation, and what we care about and what we value. People talk a lot about family values. One would hope we would value families. If families are going to be expected to live in a hovel that is so unhealthy that the children die there, what kind of a valuing of families is that?

And then you go to the school and they are in temporary quarters, they are in trailers in the middle of a North Dakota winter. And you go to the health care facility, and on Texas reservations there is no after-hour care is there, Chairman Hall?

Mr. HALL. Absolutely not.

Senator CONRAD. I just asked you, you had an experience with a person that had an accident on horseback. What did you have to do to get that person to care?

Mr. HALL. Unfortunately, I had to make out that I was a medical doctor. It happened in Cooley, and not only do we not have after hours, we don't have weekend coverage. It happened on a Saturday and so he got bucked off and the horse went over backwards and the saddle horn punctured a hole right in his groin area. He was bleeding so bad the only thing I could do was use my shirt and my belt to tourniquet him. We do not have 911, so we don't have that part of the service as well, so we had to come around with the pickup about 3 miles around from the ranch to the place where it happened. We had to load him up and obviously he was going into shock because he was losing so much blood. We could not go to New Town, which was like 20 miles away. We were in Mandareen. We had to go to Watford City, and of course I had to also be the ambulance drive and drove 90 miles an hour.

Senator CONRAD. And how far did you have to go?

Mr. HALL. About 40 miles. It is almost twice as far because we do not have after hours or weekend coverage. It is really unfortunate. The physician in Watford said he basically lost all his blood. So he needed a transfusion and he said you are fortunate that whoever we were with saved your life.

I have been in those situations far too long. I carried my father, and he was a big man. He was 250 pounds, and I had to drive him when he had heart attacks because we do not have after hours coverage. It is really daunting for a person who does not have medical qualifications to have to play doctor to do that, just to save a life.

So I do not care to do that anymore, but when you are faced with it, you really don't have a choice.

Senator CONRAD. You know, Mr. Chairman and Senator Inouye, Tex was a great basketball player, a great high school basketball player, a great college basketball player. He put the ball in the hoop. We have very little scoring going on here in terms of accomplishments for Indian country with respect to these budgets. The needs just continue and they are no being met. I think we, too, have an obligation to try to come up with a new strategy and a new plan.

I agree that we ought to ask those in Indian country to help make the case and go to our colleagues and go over their heads to the American people, but I think we need a new plan. We need something dramatic to help our colleagues understand how serious the needs are, and what a complete failure the Federal Government is meeting our responsibility.

You know, year after year I come to these hearings. This budget is probably the worst one we have seen in a long time, but the truth is when we had an Administration of a different party, they weren't any good either, if we are going to be just honest about it. Something has got to be done.

The CHAIRMAN. Would the Senator yield? My view has been that around here, needs that are not met are just needs that are transferred. If you do not put the resources into education and housing and job development and health care and so on, you end up with a higher crime rate, a higher drug abuse rate, a higher suicide rate. All the other societal problems go with a depressed society or depressed people.

So when you do not fund needs up front, you are going to fund them later whether you want to or not, and they are going to cost a heck of a lot more, I think.

Maybe that is the picture we have to get across to our colleagues a little more.

Senator CONRAD. And if there is one place, and I will just conclude on this, this is a place where we have a clear responsibility. We have treaty obligations. This Government made promises, many of which for example with respect to a health care facility at Three Affiliated Tribes, which Chairman Hall was just describing, we took their hospital. We took their hospital and we flooded it. We flooded the land that it was on, and we promised them at the time, oh, don't worry, we will rebuild that hospital. And we never did. And we never did.

So people talk about a credibility problem. The Federal Government has a credibility problem because these needs are as clear as they can be. They are our obligation and it is not being done.

So we need a plan. We need a new strategy for breaking through. I thank all the witnesses here today, and I thank especially the Chairman and the Ranking Member.

The CHAIRMAN. In terms of the hospital, we did pass a bill last year, as you know, Tex said that it went through the Senate and is still pending in the House, and that is where we have to try and get it.

Mr. HALL. We are crossing our fingers for that to happen in the House.

Mr. Chairman, I want to thank Senator Conrad and all of you for your comments. I just want to make a note that our NCAI conference is the 23rd to 25th, 2 weeks from today. Part of our strategic plan is public relations, so we are going to have a meeting from 8:30–10:30 on February 23, that Monday, so if any of your staff can attend this very important meeting, we are going to start looking at a strategy and a plan, because you are right. We need to do something different. Indian people are not to be afraid of. We are a part of America. We have a lot to offer and we want to start talking about it.

The CHAIRMAN. I want to thank the panel for appearing, and all of our guests and witnesses today. I would remind you that the agencies will be testifying on February 25. If anybody would like to attend that, please do.

We will keep the record open for 2 weeks, and there will be a number of questions from myself and other committee members, including Senator Inouye, that we will send and ask for you to get answers to those in writing.

With that, the committee is adjourned.

[Whereupon, at 11:30 a.m. the committee was adjourned, to reconvene at the call of the Chair.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF ACTION FOR INDIAN HEALTH CAMPAIGN FROM CALIFORNIA

The Honorable Chairman Campbell, Vice Chairman Inouye, members of the Committee, the Action for Indian Health Campaign [AIHC] from California respectfully submits this statement for the record urgently requesting adequate health care funding for the Tribal Health Programs in California for the fiscal year 2005 appropriations budgeting process.

The AIHC is an alliance of Tribal Health Programs and is comprised of Riverside-San Bernardino County Indian Health, Inc. [RSBIHI], Indian Health Council, Inc, Southern Indian Health Council [SIHC] and the 11 member tribal health programs of the California Rural Indian Health Board, Inc. [CRIHB]. Collectively, these organizations provide over two-thirds of the Indian Health Service [IHS]-funded health services in the California Area. This work is done on behalf of 53 federally recognized Indian tribes and other American Indians and Alaska Natives who reside in the contracted service areas. As is widely known, the health care funding for tribal health programs in the California has historically been and continues to be substantially under funded.

The Federal Employees Benefit Package Disparity Index documents that tribal health programs in California currently have just 50 percent of the funds needed to provide the standard of care to our existing 68,000 active Indian clients. To fund 100 percent of the need, $71,063,437 in new IHS funds are required. Tribal health programs in California are one of twelve IHS Administrative Areas and is one of the few areas that have no IHS funded hospital facilities to provide inpatient, specialty diagnostic and treatment services.

The absence of Indian hospitals in California is a result of Congressional action in the 1950's when Federal lawmakers were persuaded to terminate many federally recognized Indian tribes in California, along with the single Indian hospital and all Indian health care services. Thanks in large part to the work of California Indians and their representative organizations, health care funding and related services to Indians in the state were reinstated-although at bare minimum. California tribal health programs have been referred to as "Contract Health Services [CHS] dependent" because CHS funding provides for the purchase of inpatient and specialty services from non-IHS providers.

Tribal health programs in California are at a major financial disadvantage because areas with IHS hospitals have both facilities and CHS funding. The IHS Area that has approximately the same number of active Indian clients as the California Area has eight IHS funded hospitals and receives $506 per active Indian client in CHS funds. The CHS amount in California is $206 per active Indian client. Simply to bring California up to the average for CHS Dependent areas would require an additional $7,956,000 in new CHS line item funds.

An on-going myth is that California tribal health programs can use the Catastrophic Health Emergency Fund [CHEF] to supplement the low California CHS active client monetary acquisition. This could not be further from reality. California tribal health programs do not utilize the CHEF because of the combined effects of

general IHS under funding and the specific lack of CHS line item funds. The tribal health programs rarely have enough CHS funds to spend on individuals to qualify for CHEF funds. A 10-year analysis of CHEF payouts indicates that California averaged 7 cases per year while the most active user Area of the CHEF program, averaged 161 cases.

With the award of additional CHS funding from IHS headquarters to CRIHB's CHS Demonstration Project, CRIHB demonstrated that the number of people in need of CHEF funds was indeed much higher. With an additional CHS allocation of $100,000 in fiscal year 1995, CHEF utilization reached a 10-year high of 14 cases. In that year the non-recurring funds were used to pay all CHS costs for cases above the threshold of $1,000. This means that more Indian clients in California received the health care services they needed.

Special consideration is also necessary because the newly established CHS distribution formula will not address the chronic under funding of the CHS program in California. The new CHS distribution formula, which IHS Director Dr. Charles Grimm instituted in April 2003, provides for a pro rata distribution of CHS funds unless the increase to the line item exceeds the Federal Office of Management and Budget [OMB] established medical inflation rate. A 10-year analysis comparing the OMB inflation rate and the growth percentage of the CHS line item indicates that CHS growth exceeded the OMB medical inflation rate only 4 times in 10 years. Additionally, the equity portion of the new formula under counts hospital costs in large segments of the State.

The AIHC is requesting that Congress support a substantial portion of the CHS increase amount for fiscal year 2005 to fund the California CHS Demonstration Project as authorized in the Indian Health Care Improvement Act ≥211 as reauthorized in H.R. 2440. Support to this Project in the amount of $4,488,000 would bring the CHS allocation to California up to the IHS national average allocation of $297 per active client and it would not take away CHS funds from the other IHS areas.

There has long been a series of misperceptions about the health status and health services utilization of American Indian and Alaska Natives in California that tend to impede the growth of the IHS services in the state. The principal causes of these misconceptions are the lack of uniform and comparative data. California has a large service area, a large number of tribal governments [107], though most California tribes are small. In addition there are large numbers of IHS eligible California Indians who are not members of federally recognized tribes [29 percent of active users] and the relatively large percentage of IHS active users who are members of tribes located outside of California [25 percent of active users]. These complexities are compounded by the multiple sources of funding for Indian health care in California and the paucity of reliable information from both State and Federal sources.

According to recent California Indian health services research studies, conducted by Dr. Carol Korenbrot:

The hospitalization rate for IHS active users in California [980 per 10,000] is directly comparable with that of the Aberdeen Area [907 per 10,000] and second only to the rate of the Alaska area. This disparity is indicative of a population in California with high levels of morbidity and counters recent IHS data which erroneously indicates that only 17 IHS active Indian clients were hospitalized.

The Medicaid expenditure on IHS active users in California who are also eligible for Medicaid are found to be only 88 percent of those for a matched sample of non-Indians in the same counties. This disparity is consistent with systematic barriers for Indians in finding specialty care, even with Medicaid coverage.

The avoidable hospitalization rates for California Indians are 30 percent higher than those of the general California population. This disparity is indicative of a deficiency in access to effective ambulatory care services.

Non-IHS hospitals in California appear to absorb the burden of between $5.7 and $8.2 million per year in uncompensated care for Indian clients of tribal health programs.

In order to maintain and expand this level of health status and services research, the AIHC is requesting that Congress support $2 million to fund IHS EpiCenters in the remaining four IFIS Areas without such a program—Billings, Oklahoma, Navajo, and California.

In short, the AIHC is requesting that in fiscal year 2005, Congress support $4,488,000 of the CHS increase amount to fund the California CHS Demonstration Project and $2 million of increased funding for IHS EpiCenters.

The AIHC thanks you Mr. Chairman, Mr. Vice Chairman and members of the Senate Committee on Indian Affairs for taking the time to further understand the funding needs of the tribal health programs in the California IHS Service Area and asks you to provide the health care funding being requested.

Statement of Gary L. Edwards

Chief Executive Officer for the
National Native Law Enforcement Association

Before the

United States Senate Committee on Indian Affairs

February 11, 2004

Hearing on the President's FY 2005 Budget Request for Indian Programs

Mr. Chairman, Mr. Vice-Chairman and members of the Committee, my name is Gary L. Edwards. I am the Chief Executive Officer of the National Native American Law Enforcement Association (NNALEA). I also serve as the Vice-Chairman of the Native American National Advisory Committee for Boys and Girls Clubs of America and I am a National Advisory Committee member for the Helen Keller Worldwide ChildSight program. It is a pleasure to appear before you today on behalf of NNALEA regarding the FY 2005 Budget Request for Indian Programs.

With regard to FY 2005, NNALEA believes that it is necessary for funding for Indian programs critical to Tribal sovereignty, stability, infrastructure, and quality of life to at least be maintained at current funding levels, while additional funding may be necessary for Indian programs essential to national strategies and objectives, such as the National Homeland Security Defense Strategy and the Federal Enterprise Architecture.

NNALEA also believes that two specific categories of Indian programs warrant special discussion today. These categories are: (1) Tribal law enforcement, public safety and homeland security; and (2) Tribal youth. I will briefly highlight some of the risks and potential solutions for each category.

1. Tribal Law Enforcement, Public Safety and Homeland Security.

RISKS

Drugs. Tribal cultures are being devastated by illegal drugs and alcohol abuse. Approximately 85 to 90 percent of crime in Indian country derives from some form of illegal substance or alcohol abuse. Illicit substance and alcohol related injuries are the foremost cause of death among Native Americans. Infants suffer in great numbers from the chemical dependencies passed on to them by mothers who are addicted to drugs and alcohol. Law enforcement officials note a direct relationship between methamphetamine distribution and violent crime, particularly domestic violence, aggravated assault and

child abuse. The immeasurable effect of substance and alcohol abuse has affected Indian communities in terms of physical, mental, cultural, social and economic conditions.

Currently, the BIA has 11 drug enforcement agents for all of Indian country. Many tribal law enforcement programs have no law enforcement officers assigned to combat illegal drugs. It is very difficult, if not impossible, for 11 drug agents to fully address this critical investigative responsibility. BIA intelligence indicates intentional targeting of Indian reservations due to reduced law enforcement presence in Indian country as compared to other parts of the United States. Smuggling routes throughout Indian country move drugs, weapons, and illegal aliens without detection. The lack of adequate law enforcement coverage subjects Indian Country to the vulnerability of illegal activity.

In addition to the smuggling, it is possible that terrorist will or already may be taking advantage of these venues. This threat affects both Indian and non-Indian communities.

Violent Crime. Native Americans are 2 ½ times more likely to be a victim of a violent crime than non-Native Americans. In spite of the recent efforts of Congress to address law enforcement problems in Indian country, many tribal communities continue to lack enough trained law enforcement personnel.

The violent crime rate for Indian country in 2002 was 49.8 percent higher than the national average for violent crime in non-Indian communities. Violent criminal offenses considered for the above cited crime rate statistics are murder, forcible rape, aggravated assault and robbery.

Gang activity is rampant in some Tribal communities. Much gang related activities go unresolved due to lack of resources, equipment, training, technical assistance, and the remote location of some Tribal reservations, making law enforcement response, back-up, and access difficult, if not impossible. Many times, gang criminals fear little retribution from Tribal law enforcement and the Tribal court system due to jurisdictional limitations.

Public and Officer Safety. In FY 2003, the DOJ Office of Community Oriented Policing (COPS) office reported that there are approximately 1,630 COPS officers throughout Indian country. Funding for COPS officers is for three years. It is estimated that in FY 2004, funds for approximately 383 officers will expire, and in FY 2005 approximately 253 more officer positions will expire. In order to retain these trained and experienced police officers, tribes will need a means to fund these law enforcement positions. The long-term benefits of the COPS program for tribes are dependent on permanent funding to sustain these positions. COPS grants are not just infrastructure, but also manpower.

There is an increased demand for additional personnel or basic law enforcement equipment such as body armor, vehicles, and radios for Tribal law enforcement. Due to the extremely limited staffing available to provide 24-hour law enforcement coverage, many law enforcement officers are covering areas with one officer per shift. For

instance, the Eastern Nevada, Uintah and Ouray (in Utah) and the Hopi (in Arizona) Agencies are spread over hundreds of miles. Routinely, there is only one officer on duty. It is not uncommon for an officer to wait more than three hours for backup to travel 90 miles or more on a two lane highway through rugged mountainous terrain to provide assistance. Officer back-up is not only contingent on the availability of another officer, but also on the ability and capability to transmit the call for assistance via radio or telephone. Further, due to the shortage of law enforcement officers, many officers are routinely forced to work excessive hours to maintain response to the calls received. In recent years, the BIA has experienced two "line of duty" deaths due to officer fatigue.

Tribal Homeland Security Vulnerabilities. There are certain vulnerabilities on tribal lands that affect the security of not only Tribal lands but also the United States of America as a whole. Some of the primary vulnerabilities on Tribal lands today pertain to border and port security on Tribal lands, critical infrastructure located on Tribal lands {i.e., dams, water impoundments and reservoirs, electrical generation plants, waste systems}, the existence of non-integrated law enforcement and lack of jurisdictional clarity; and the minimal emergency response and medical capacity, planning and implementation.

For instance, International borders that are located in Indian country require a border management strategy similar to existing border management strategies protecting the United States from threats of terrorist attacks. The implementation of an aggressive border strategy, one that integrates Tribal, Federal, state and local law enforcement, public safety and emergency management programs will necessitate additional funding to allow for additional personnel and state-of-the-art technology (i.e., integrated communications systems, surveillance, sensor and other technical equipment to detect unauthorized entry). The war on terrorism has dramatically increased the crisis along both the Southwest and Northern Tribal border areas which have suffered historically from smuggling of narcotics, illegal immigrant smuggling, and other trafficking in various items of contraband. Leaders from Federal, Tribal, state, and local governments are highly concerned that the lack of proper law enforcement along Tribal borders create weak points in our Nation's defense against terrorism. Sam Smith, of the New York Post, called Indian reservations the "weakest link in the northern border". Whether this moniker is true or not, the perception exists and these areas lack resources adequate to curtail illegal trafficking and possible terrorists' activity on Tribal lands near international borders.

There are approximately 37 Indian Reservations located on or near the Unites States international borders with Mexico and Canada. These Tribal international border areas span hundreds of miles, millions of acres, and present unique challenges to law enforcement. Located in rural and urban areas, these reservations are in close proximity to major routes and highways. In many cases, they are located on or near international waterways. All of these areas are vulnerable to unchecked and surreptitious entry into the United States. The BIA and tribal law enforcement programs provide the majority of law enforcement services in these areas. Many of the tribal members of these reservations possess dual citizenship with the neighboring country. Due to the shortage of law

enforcement in these areas there is a long history of criminal smuggling activities across international borders that are associated with many Indian reservations.

The significant increase in border crossings by illegal aliens has put stress on the Tohono O'odham Nation, Sells, Arizona Indian Health Service hospital. BICE, CBP, and others frequently bring ill aliens to the emergency room for care and do not take any responsibility for payment for services. This reduces the availability of services to tribal members and costs no less than $200,000 per year in unfunded care.

A solution to the health care of illegal aliens needs a substantive solution for while the tribe is suffering the costs of this flood, it also extends to most, if not all community hospitals along the border. As we are aware, these small rural hospitals are the facilities least able to financially absorb such cost.

Indian Country needs a Tribal border initiative managed by Federal and Tribal law enforcement, integrated with state and local law enforcement, and operated in a coordinated and effective manner. The work of many law enforcement and security task forces affect Tribal lands and communities, therefore, it is imperative that local tribal officials fully participate in the development and planning of security strategies. Local Indian communities who are most knowledgeable about their security needs and vulnerabilities should be consulted and play a critical role in formulating policies that protect Tribal lands, communities and the Nation. Full Tribal support for Homeland Security measures may not be possible without addressing each tribe's law enforcement, public safety and emergency response needs and by providing additional sufficient, specific, Federal funding to empower Tribes to fit seamlessly into a fabric of the National Homeland Defense Strategy and meet the requirements of the National Federal Enterprise Architecture.

Tribal Border Security is just one aspect of the Homeland Security vulnerabilities on Tribal lands. As the National Homeland Defense Strategy is rolled out nationwide, Tribal Border Security is clearly a priority on everyone's short list.

POTENTIAL SOLUTION SNAPSHOTS

Drugs. NNALEA supports **increasing the number of drug enforcement officers in Indian country,** which may help reduce illegal drug trafficking, distribution, manufacturing, and cultivation in Tribal lands. NNALEA with the help of its law enforcement and academic partners is developing a tract of **training on "Drugs in Indian Country"** for its 2004 National Training Conference. At this Conference, NNALEA also anticipates having a track of training on **"Gangs and Violent Crime in Indian Country"**.

For the safety of Indian communities and law enforcement personnel, and our Country as a whole, NNALEA **supports the efforts of BIA and tribal law enforcement in their quest for adequate funding for certain Indian programs**.

Public and Officer Safety. The **Office of Community Oriented Policing Services (COPS)** created a series of programs to meet the needs of law enforcement in Native American Communities for infrastructure building to manpower, training, and equipment. COPS Native American programs address quality-of-life issues as well as a comprehensive list of law enforcement expenses. COPS has awarded more than $235 million to Indian Country law enforcement and community programs since 1999, to assist Tribal communities suffering from high rates of crime and violence with limited tribal resources to fight it. Cops Indian Country funding has made it possible to hire more than 1800 new community policing officers since 1999. In FY 03, COPS awarded an additional $35 million to bolster community policing and homeland security within Native American Communities. A program like the **COPS program is essential** for Tribal communities, law enforcement, public safety, and Tribal Homeland Security. Public safety funding to Native American communities needs to be maintained.

The **full integration of law enforcement and judicial clarity in Indian Country** needs to be achieved for the progress of Indian Nations and for quality of life issues in Indian communities. This will also benefit the Nation as a whole and strengthen Homeland Security.

Tribal law enforcement and public safety professionals need to be at parity with their non-Tribal counterparts in areas of pay, benefits, equipment, training and technical assistance. In turn, Indian Country law enforcement needs to improve its quality of law enforcement to a level of parity with that of non-Indian Country law enforcement. However, **parity in funding for Tribal and non-Tribal law enforcement and public safety programs** is necessary. Tribal law enforcement agencies and departments should strive for **national accreditation** and sworn law enforcement officers should strive for a nationally recognized **officer certification**. Federal funding is critical to the success of these quality goals. Another critical area to achieve parity is education, training and technical assistance. NNALEA will help Indian Country achieve its goals for parity in Tribal Law Enforcement, Public Safety and Emergency Management programs with its partners in the **Academic Center for Excellence in Native American Education Training and Technical Assistance (ACE). The ACE core partners are NNALEA, Fort Lewis College of Colorado, East Central University of Oklahoma, the Federal Law Enforcement Training Center – Distance Learning Program and the Boys and Girls Clubs of America. Newly joining the ACE core team is the Federal Bureau of Investigation (FBI) "Virtual Training Academy"** which will greatly expand the ACE training capabilities. Expanded partnerships are being made with Tribal, Federal, state, local and private departments, agencies, organizations and companies. The ACE hopes to include as partners all Tribal Colleges and Universities as funding and structure develop. The ACE currently provides Homeland Security training and technical assistance to law enforcement officers, first responders and Tribal homeland security planners.

Currently, ACE partners are seeking to develop an interoperable satellite communications system for Tribe and rural law enforcement, public safety, and emergency responders. Testing has already been successfully done on the Navajo Reservation.

Tribal correctional programs and correctional facilities are in great need of funding support for quality, culturally sensitive, corrections programs and funding sufficient to build new facilities, modernize current structures and maintain adequate professional staff support. Corrections program management and tribal community opportunities for jobs need to be scrutinized. Culturally sensitive programs should to be developed. Immediate implementation of substance abuse treatment and related behavioral interventions as well as the development of innovative interventions for special needs offenders should begin as soon as possible. Vocational development and job training focused toward the community to which the offender will be released is critical. **Tribal correctional facilities need to meet the ACA standards**, like other federally approved correctional facilities off reservations. Adequate funding is necessary for Tribal governments to achieve this goal.

Tribal Homeland Security Vulnerabilities. Tribal Homeland Security planning, participation and preparedness is critical to our National defense. Since 2002, **NNALEA** has published the **"Tribal Lands Homeland Security Report"**, conducted national trainings entitled **"Tribal Lands Homeland Security Summit"** and **"Tribal Lands Homeland Security Forum"**. NNALEA will provide **additional Tribal Homeland Security training to a national audience at its 2004 National Training Conference**.

NNALEA has developed and presented a **"Seven Phase Approach to Tribal Lands Homeland Security"** that encompasses Native American Homeland Security in the Continental United States, Alaska and Hawaii.

The National Congress of American Indians (NCAI) is partnering with NNALEA and the Department of Homeland Security (DHS) to conduct a **Tribal Border Homeland Security pilot project**. Many of the issues listed above regarding Tribal border security will be addressed. This will be a collaborative effort with Tribal, Federal, state, local, and private industry stakeholders taking part throughout the project. NNALEA partners from the FBI Indian Country Unit, the ATF, the BIA, the Border Patrol, and the Secret Service will provide advice and technical assistance from the beginning of the project.

At the invitation on DHS, a representative from Indian Country is sitting at the table with other national, state and local representatives to have a voice in the development and writing of the **National Incident Management System (NIMS)** and the re-writing of the **National Response Plan (NRP).**

2. Tribal Youth

RISKS

Health. American Indian and Alaska Native (AI/AN) youth suffer rates of morbidity and mortality that is significantly higher than the rates for all races in the United States in nearly all age groups. Mortality from alcoholism is over 10 times the rate for all races in

United States, and between 1990 and 2001 there has been a 106% increase in diabetes for the AI/AN age group 15 to 19.

Violent Crime. Native American teenagers are 49 % more likely to be victims of violent crime than non-Native American teenagers. These alarming statistics were shared with the participants attending the "Gangs and Violent Crime" training track at the NNALEA National Training Conference, November, 2003.

Gangs. During NNALEA's "Gangs and Violent Crime" training track it was reported that there are approximately 375 Native American based gangs with approximately 6,000 members and associates. It was reported that some of the ways Native American juveniles learn to become gang members is at adolescence treatment centers, correctional facilities where there is lots of gang activity, the media, peers with urban connections, and family members who are gang involved. It was further reported that many of the catalysts for Native American gang involvement include reservation boredom, cultural identity issues, lack of parental support systems, lack of community resources, and education de-emphasis. It was stated that the closer a youth is to the Tribal culture, the less attractive the gang subculture. Thus, there needs to be a strong cultural connection for Tribal youth in the community.

Juvenile Delinquency. According to the1999 Census of Juveniles in Residential Placement (CJRP), approximately 2,000 American Indian and Alaska Native youth, who were charged with or adjudicated for criminal or status offense, were being held in juvenile residential facilities across the country. Preliminary estimates for the 2001 CJRP census suggests an increase of approximately 8 percent in the number of Native youth in residential placement on the census date two years later.

POTENTIAL SOLUTION SNAPSHOTS

During the last several years, NNALEA working through partnerships with Tribal communities to address attacks on the security and wellness of Native American youth has worked closely with two youth programs that have been particularly effective in addressing Native youth life dilemmas in Indian Country. They are the Boys and Girls Clubs of America (BGCA) and the Bureau of Alcohol, Tobacco, and Firearms' (ATF) "Gang Resistance, Education, and Training" (G. R. E.A. T.) program.

The Boys & Girls Clubs of America's successful movement to create Boys & Girls Clubs in Indian Country has grown from a single Club in Pine Ridge, North Dakota in 1992, to 26 Clubs in 1996, to 171 Clubs in 2004 – with a number of additional Clubs on the drawing board. Today they are serving nearly 70,000 Native American youth in 22 states, representing 77 different American Indian, Alaska Native and Hawaiian communities. This growth is founded on hard work and commitment to tribal youth, the development of community partnerships, quality programming, and financial resources – both local and federal funds. Since 1997, BGCA has contributed over $30 million in federal funds for Native Clubs and has produced program materials and customized

trainings specifically focused on Indian Country needs. No other national youth service organization has initiated and maintained such a well-organized national commitment to Native youth. Recognizing the economic situations on most Indian Reservations, BGCA established the Native American Sustainability Fund – specifically designed to acquire funds to sustain existing quality Clubs and to continue to open new Clubs. It is strongly recommended that funds be designated to BGCA's Sustainability Fund for Indian Clubs to ensure the continuation and growth of this strong network of local tribal Clubs that are changing the course of history for Native American youth and their families.

In 2002 and 2003, NNALEA partnering with the BGCA, the G.R.E.A.T. program and the Department of Justice (DOJ), Office of Community Oriented Policing Services (COPS) program, introduced the "Reaching Native American Youth" G.R.E.A.T. program pilot to 7 Boys and Girls Clubs of America on Tribal reservations. **The NNALEA "Reaching Native American Youth" G.R.E.A.T. program** was a true success for Native youth and their Tribal communities. Tribal youth established new relationships with law enforcement officers, community leaders, parents, and Club staff and they acquired new skills in resisting gangs. Positive interaction with police officers and the knowledge gained from curriculum content and activities helped youth to understand how to avoid potential conflicts, resist peer pressure, and recognize the relationship between behaviors and consequences, and set positive goals for a bright future ahead. It is important for all youth, but especially those facing personal and social challenges within their families and communities, to be supported by others and be involved in positive experiences. NNALEA is working to take this worthwhile program throughout Indian Country. The "Reaching Native American Youth" program needs to be funded to continue at the pilot sites and expanded to new sites across Indian Country.

NNALEA recognizes the special attention the **Indian Health Service** is paying to the needs of AI/AN youth by partnering with the National Congress of American Indians (NCAI) and the Boys & Girls Clubs of America (BGCA) to assist the BGCA goal of increasing the number of BGCA clubs in Indian Country. This partnership focuses on **healthy lifestyles** and helping keep AI/AN youth in school. IHS also continues to support the United National Indian Tribal Youth (UNITY) organization that focuses on helping develop leadership qualities in AI/AN youth and young adults and the American Indian section of the Society for the Advancement of Chicanos and Native Americans into Science (SACNAS) that provides more opportunities for AI/AN youth to enter college and post graduate science related vocations.

NNALEA also recognizes the **Helen Keller ChildSight program** which conducted a pilot program last year in Indian Country. In total, 974 Native American children ages 10 to 15 years old, participated in voluntary vision screening conducted by qualified vision professionals at seven Indian Country facilities. Of the 974 Tribal youth screened, 367 were found to have refractive error and needed prescription eyeglasses. Of that number, 155 already had suitable eyeglasses and ChildSight provided for 212 Native children who needed but did not have them. Among the Tribal youth, the refractive error rate was an astonishing **37.7 %**. According to the Helen Keller ChildSight program professionals, the usual refractive error rate for the tested age group is **11% to 20%.** In addition, nearly

5% of the 974 Tribal youth's vision screened had indications of eye pathology and were referred to the ophthalmologist for vision assessment and any needed treatment. Usually, the ChildSight program finds that only **1% to 2%** of children screened need referral due to indications of eye pathology. As such, the Helen Keller ChildSight program needs funding to continue their vision screening program in Indian country.

Conclusion

In closing, funding is very important to the success of the programs I have mentioned. It is NNALEA's belief that it is necessary for funding for Indian programs critical to Tribal sovereignty, stability, infrastructure, and quality of life to at least be maintained at current funding levels, while additional funding may be necessary for Indian programs essential to national strategies and objectives.

Thank you and I am happy to answer any questions that you may have.

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NATIONAL CONGRESS OF AMERICAN INDIANS

NCAI TESTIMONY ON THE ADMINISTRATION'S FISCAL YEAR 2005 BUDGET REQUEST FOR INDIAN PROGRAMS

Senate Committee on Indian Affairs
February 11, 2004

On behalf of the more than 250 member tribal nations of the National Congress of American Indians, we are pleased to present testimony on the Administration's Fiscal Year 2005 budget request for Indian programs. We look forward to working with this Committee to ensure that the critical programs and initiatives authorized and supported by this body are funded at levels which will ensure their long term effectiveness.

On February 2, President Bush proposed a $2.4 trillion budget for FY 2005 that included level funding and numerous decreases for Indian programs, continuing the trend of consistent declines in federal per capita spending for Indians compared to per capita expenditures for the population at large.

We are deeply disappointed that this budget does not reflect leadership by this Administration to take on the "Quiet Crisis" which has resulted from underfunding of federal Indian Programs according to a 2003 report of the bipartisan U.S. Civil Rights Commission. While we recognize that this budget reflects fiscal belt-tightening across the board, we believe this quiet crisis should be a national priority to address—certainly as worthy of focus as programs such as sending a manned mission to Mars which this Administration has prioritized instead. We hope that Congress will work with tribes to see this priority better reflected in the budget process.

The Administration's proposed budget does not reflect the priorities of Indian Country to fully fund Indian health care, Tribal Priority Allocations, contract support, road maintenance, school facilities, and services at the local level. These priorities have been laid forth by the BIA/Tribal Budget Advisory Council, as well as by tribal leaders in budget consultations with IHS and other agencies. We ask that these recommendations be taken more closely to heart as the FY05 budget advances.

In addition to addressing the troubling general trend of decreased federal fulfillment of trust obligations to tribes, we want to highlight three key concerns within the proposed budget that we hope this Committee will work to address in FY05:

- **Self Determination programs** throughout the budget—initiatives this Administration has expressed consistent support for—have not only failed to receive needed funding increases, but face cuts which will deeply hobble tribes' ability to effectively assume local control in the face of shrinking TPA budgets, inadequate 638 pay cost increases, insufficient contract support funding, and grossly underfunded Administrative Cost Grants;

- Funding for **law enforcement in Indian Country** would continue a troubling downward trend under the FY05 request, at a time when homeland security and public safety concerns most require concerted federal support. Essential Department of Justice funding for Tribal Courts would be cut by $7.6 million, and Indian Country Prison grants would be cut by $2.5 million. A 50% increase in funding for tribal law enforcement is necessary to provide for basic public safety in Indian Country.

- Precious resources continue to be diverted to a **Department of Interior reorganization** which tribes have opposed and which fails to take into account the need for local flexibility or the results of the "to be" study which was recently completed by the Department. More effective use of funds is demonstrated by the laudable focus on funding for **Land Consolidation** within the proposed budget. Until a better plan which reflects consultation with the tribes—who know best what works in trust management at the local level—a moratorium should be placed on funding further reorganization.

BUREAU OF INDIAN AFFAIRS/OFFICE OF SPECIAL TRUSTEE

The BIA budget request for FY 2005 is $2.3 billion, a drop of $52 million from the 2004 enacted level. In the BIA budget, the costs of OST-BIA reorganization are effectively punishing tribes for the Department's own trust mismanagement—a double injury to individual and tribal trustees hurt by this mismanagement. With continuing focus on a reorganization plan that NCAI and numerous tribes have opposed, the 2005 BIA budget proposes a net increase of $42 million in trust-related programs, and cuts to other programs to offset trust increases that result in a de facto decrease in critical tribal funding within BIA of over $100 million. Other key areas of the BIA budget, such as Tribal Priority Allocations and initiatives that support education and economic development, remain deeply under-funded.

Tribal Priority Allocations (TPA). TPA funding is the main source of tribal resources to provide governmental services at the local level for most tribes. Funding for this account supports ongoing services at the local tribal level for such critical needs as housing, education, natural resource management, and tribal government services. Since tribes have flexibility to use TPA funds to meet the unique needs of their individual communities, these funds are an essential resource for tribes to exercise their powers of self-governance. This account, key to tribal self-determination, has been deeply underfunded for years. According to a 2003 report by the U.S. Commission on Civil Rights, the percentage of BIA funds provided to TPA has steadily dwindled since 1998. Between FY 1998 and FY 2003, TPA spending power has decreased by $36.5 million or 4.4 percent. Unfortunately, the proposed FY 2005 budget fails to even address inflationary costs, with only a $5 million increase requested for this key account. NCAI recommends at least a 5 percent increase in TPA for FY 2005 to address inflationary cost increases, a total increase of $35 million over the FY 2004 enacted level.

The Census Bureau's *Poverty in the United States* for 2000 showed that American Indians and Alaska Natives remain at the bottom of the economic ladder – with 25.9 percent of our population falling below the poverty line. This compares to an 11.9 percent poverty rate for all races combined. Simply put, tribal governments simply cannot continue to provide essential government services to our growing – and disproportionately poor – population without a substantial increase in our TPA funds.

Self-Determination Pay Cost Increases. NCAI recommends that 638 Pay Costs be restored to full funding for tribes in the FY 2005 Interior Appropriations budget. In the past, the 638 Pay Cost account has matched what the Administration and Congress provide for federal workers employed by federal agencies each year. But tribes received only 15% of their 638 Pay Cost funding in FY 2003 and about 30% in FY 2004. As a result of these decreases, tribes' core service funding is effectively rendered far less than nearly a decade ago. This underfunding seriously undermines tribes' ability to provide critical services promoting the public safety, security, and well being of communities already suffering some of the worst living standards in America. Some federal agencies may be able to absorb such an onslaught of cuts, but tribes—wrestling with well-documented funding shortfalls to begin with—cannot. The Pay Cost disparity between federal and tribal employees seriously undermines the federal Indian policy of self-determination and self-governance.

Office of Special Trustee. The budget request includes a significant initiative to increase funding for trust management within the BIA and the Office of Special Trustee. The request included a significant increase of $53.3 million to the Indian Land Consolidation account, a welcome increase to an area supported by NCAI

and tribes as vital to long-term trust management reforms. However, $109 million would be directed toward a historical accounting without mutually acceptable parameters established on how to undertake this extraordinary complex task. The Office of Special Trustee would receive a $113.6 million increase – to $322.7 million – which is partially offset by a $63 million cut to BIA Construction and a $13.5 million cut to BIA Other Recurring Programs. Within BIA Construction accounts, Education Construction will lose $65.9 million—despite a terrible backlog of new school construction needs that everyone agrees must be taken care of promptly.

Tribal leaders have repeatedly emphasized that funding needed to correct problems and inefficiencies in DOI trust management must not come from existing BIA programs or administrative monies—yet once again, this year's budget request reduces effective funding for tribes to fund a reorganization that tribes have opposed. It is critical that the Department request additional funding from Congress to correct the internal problems created through their administrative mistakes rather than depleting existing, insufficient BIA program dollars for these purposes.

Contract Support Costs (CSC). Contract Support Cost (CSC) funds are the key to self-determination for tribes—these funds ensure that tribes have the resources that any contractor would require to successfully manage decentralized programs. The President requested a $2 million reduction in funding for contract support costs, down to a proposed level of $133.3 million from the FY 2004 request of $135.3. An additional $25 million is needed in BIA to fully fund CSC (excluding direct contract support costs). This shortfall continues to penalize tribes that elect to operate BIA and IHS programs under the self-determination policy. Additional CSC appropriations are needed to implement the self-determination and self-governance policy as supported by Congress.

School Operations. NCAI and the U.S. Civil Rights Commission have called for badly needed increases to funding for BIA School Operations—but rather than addressing the tremendous need that exists for classroom dollars, transportation, and contract support for tribally operated schools, this critical account would be decreased under the proposed budget to $522.4 million, down $6 million from the enacted amount in FY2004.

Proposed funding for Administrative Cost Grants--the equivalent of contract support for tribally operated schools--not only fails to come close to addressing the drastic shortfalls faced in this account, but would actually be *cut*. Despite current funding that is approximately 70% of the formula required by law for essential Administrative Cost Grants that support sound management of tribally-operated schools the President's budget would cut funding for this critical line item by $3.8 million to $45.3 million for FY 2005.

With the added burden of implementing the requirements of the No Child Left Behind Act, additional funding for ISEP is absolutely critical to the continuing function of BIA schools. NCAI also remains deeply concerned about the impact of OIEP's consolidation of line officers on BIA school functions.

INDIAN HEALTH SERVICE

The FY 2005 funding request for the Indian Health Service marks a rise of $45 million over the FY 2004 enacted level—but falls far short of addressing the overall growth in population and rapidly increasing medical costs which have resulted in expanded unmet needs in Indian Country. The HHS discretionary budget has increased at a much faster rate than the total IHS budget since 1975, despite estimates that between 1998 and 2003, the service population of IHS has increased at least 11.5 percent and industry experts estimate that medical costs have grown 10 to 12 percent annually.

Proposed funding for Indian health care facilities construction would be cut by more than half under the proposal, down from $94 million enacted in FY 2004 to $42 million requested in FY 2005. Funding for

Maintenance and Improvement as well as Medical Equipment for Indian health facilities would receive level funding in the proposed budget. Yet IHS facilities have an average age of 32 years and medical equipment is used for twice the normal life span in IHS facilities as compared to general facilities.

According to the National Indian Health Board, in 2001, there was a $900 million backlog in unmet needs for health facilities, impeding Indian access to care and contributing to the degenerating health conditions in Indian Country.[1] About a quarter of IHS' budget for Clinical Services is dedicated to contracted care. The amount required to meet the needs of the Contract Health Service programs in Indian Country is estimated to be $1 billion, but the request for Contract Health Services would provide only $481 million for FY 2005, less than half the amount needed to run the program. NCAI recommends an increase to Contract Health Services of $120 million in FY 2005.

Despite slight increases, IHS' real spending per American Indian has fallen over time, after adjusting for inflation and population growth. The IHS spends roughly $1900 per person per year on comprehensive health services, far below expenditures per person by public and private health insurance plans, and 50 percent of what is spent for health care for *federal prisoners*. Even when IHS non-medical expenditures per person are accounted for, IHS spends less on its service users than the government spends on any other group receiving public health care.

While important gains have been made in funding for diabetes prevention and treatment efforts, progress toward the goal of eliminating health disparities for American Indians and Alaska Natives will require coordinated, concerted efforts—and increases across the board in the IHS budget.

PUBLIC SAFETY

More than 200 police departments, ranging from tiny departments with only two officers to those with more than 200 officers, help to maintain public safety in Indian Country. According to a recent Justice Department study[1], the typical Indian Country police department has no more than three and as few as one officer patrolling an area the size of Delaware.

The same DOJ study found that inadequate funding is "an important obstacle to good policing in Indian Country." Because the violent crime rate in Indian Country is more than double the national average, the need for police coverage in Indian Country compares more directly with large urban areas with high violent crime rates. According to the Bureau of Justice Statistics, cities like Baltimore, Detroit, and Washington have police-to-citizen ratios of 3.9 to 6.6 officers per 1,000 residents. On the other hand, virtually no tribal police department has more than two officers per thousand residents. In Alaska, a third of the 226 Native Alaskan villages lack any form of law enforcement due to lack of funding. Of the population in Alaska receiving limited or no police protection, 80% are Native; whereas more than 80% of the population receiving full protection from state troopers are non-Native.

Given that the Justice Department itself published a study that justifies the need to increase resources for Indian Country law enforcement, it is disappointing that tribal law enforcement programs have either lost funding or at best retained level funding since FY 2002. The President's budget would cut $4.7 million in essential tribal law enforcement funds allocated by the COPS program. We strongly oppose these cuts, and request an increase to FY 2002 funding levels at a minimum for Indian Country law enforcement programs.

Under the Administration's proposed budget, essential Department of Justice funding for Tribal Courts would be cut by $7.6 million. Indian Country Prison grants would be cut by $2.5 million. The amount of total

[1] U.S. Department of Justice, Office of Justice Programs, National Institute of Justice, *Policing on American Indian Reservations*, September 2001.

funding for Indian programs within the Department of Justice decreased by 14 percent between 2002 and 2003, and Office of Tribal Justice Program funding decreased by 43 percent. At a time when homeland security and public safety concerns most require concerted federal support for law enforcement in Indian Country, budget requests for 2005 further this troubling downward trend. A 50% increase in funding for tribal law enforcement is necessary to provide for basic public safety in Indian Country. Tribal Courts should be funded at a level of at least $15 million per year to enable tribes to continue court operations and enhance tribal justice facilities.

HOMELAND SECURITY

Tribal leaders share the President's concern for homeland security. The President's budget proposed a 4.6 percent increase for DHS to an overall funding level of $28.3 billion. Grants to large metropolitan areas for terrorist threats would be doubled to $1.4 billion in FY 2005. Local government funding for law enforcement, fire departments, and emergency medical service would be cut from $4 billion to $3.6 billion in the proposal. Funding for Homeland Security measures are primarily in DHS agencies but other grants are available through the Health and Human Services' Health Resources Services Administration. With the exception of the Assistance to Firefighters Grant Program (DHS Federal Emergency Management Agency) tribal governments are not eligible for direct DHS funding.

Under the Homeland Security Act of 2002, the responsibilities tribes bear for ensuring the security of lands has largely been overlooked, with tribes treated as local governments such as counties or municipalities in spite of their much broader public safety enforcement responsibilities. Legislation to amend the Homeland Security Act of 2002 has been proposed (S.587 and companion bill H.R. 2242) to ensure that tribes are treated in a manner more similar to state governments. We ask that a concerted effort be made to ensure that tribal areas have equal access to funding as FY2005 funds are directed toward Homeland Security.

ENVIRONMENTAL SAFETY AND INFRASTRUCTURE

The air we breathe, the water we drink, and the land on which we live are of the utmost importance to American Indian and Alaska Native culture and tradition, and are the bedrock on which we can thrive as healthy communities into the future.

NCAI appreciates the proposed elimination of the cap on EPA Non-Point Source Pollution grants that may be awarded to tribes. However, we are disappointed to see that the President's budget would cut Alaska Rural and Native Water Systems funding in the Department of Agriculture from $28 million down to $11.8 million for FY 2005. Overall, Rural Community Advancement Program grants to tribes would be reduced from $24 million to $13 million. Similarly, State and Tribal Assistance Grants within EPA that address drinking water and waste infrastructure needs of rural Alaska Native villages would be reduced from $43 million to $40 million. Rural Water Projects within the Bureau of Reclamation budget, also critical to ensuring safe water supply to tribes, would be cut by nearly $7 million under the Administration's request.

The Department of Health and Human Services has reported that 8 percent of Indian homes lack running water, compared to less than one percent of the non-Indian population. Thirty-three percent of tribal homes, fully one-third, lack adequate solid waste management systems. In 2004, no American should be without access to clean water and sanitation facilities. These programs need increased funding—not cuts—to address these infrastructure needs that are so critical to public health.

General Assistance Program. Tribal environmental program managers rightly perceive the EPA's General Assistance Programs (GAP) as the primary federal mechanism available to protect our lands. GAP activities provide tribes with the resources needed to build capacity for EPA-delegated environmental programs. The

Administration has requested $62.5 million for tribal GAP grants; but in order for tribes to continue to develop their environmental management infrastructure capability, a minimum level of $67 million is needed.

HOUSING AND URBAN DEVELOPMENT

Under the President's budget, NAHASDA funds would be decreased from the $654.1 million amount enacted in FY 2004 to $647 million for FY 2005. For the Indian Housing Loan Guarantee program, the President's budget requested $1 million, down from $3 million enacted in FY 2004. Indian and Hawaiian Loan Programs would be decreased to $2 million in the FY 2005 request from $6 million in FY 2004. The budget request proposed $71.6 million for Community Development Block Grants for FY 2005. We ask that these cuts be reversed.

TRIBALLY CONTROLLED COMMUNITY COLLEGES

NCAI welcomes investment in tribal colleges, as demonstrated in funding for the Native American Institutions Endowment Fund, which would be increased by $3 million to $12 million in the Department Agriculture. But the President's budget for BIA requested $43.4 million for TCCCs, down from $49.2 million enacted for FY 2004 (before across-the-board cuts to enacted levels). For a third year in a row, the budget recommends no funding for the United Tribes Technical College in North Dakota, an important tribal training institute which NCAI strongly supports.

ELDER CARE

The FY 2005 budget requests $25.7 million for Grants to Indian tribes in the Administration on Aging. Funding for elders programs has decreased per elder since FY 1980 to FY 2000 from $303 to $137 due to population growth and inflation. NCAI supports the National Indian Council on Aging (NICOA) request that funding for Title VI of the Older Americans Act be increased to $30 million. Funding to date for this program has never served the Title's mandate to provide services "comparable to those provided under Title III", which provides a wide range of social services to the elderly nationwide.

HEAD START

The Administration's FY 2005 budget proposal does not increase funding for Head Start programs sufficiently to meet the needs of Indian Country. Tribally operated Head Start programs are one of the most important ways that we are protecting the future of our people—yet we struggle with old and unsafe facilities, lack of facilities, lack of buses and buses that are no longer road-worthy, and unsafe playground equipment. Tribes MUST be consulted before sweeping reforms are implemented on a program that is so critical to our future, and it is absolutely essential that tribes maintain direct federal funding for tribal Head Start programs.

CONCLUSION

NCAI realizes Congress must make difficult budget choices this year. As elected officials, tribal leaders certainly understand the competing priorities that you must weigh over the coming months. However, the federal government's solemn responsibility to address the serious needs facing Indian Country remains unchanged, whatever the economic climate and competing priorities may be. We at NCAI urge you to make a strong, across-the-board commitment to meeting the federal trust obligation by fully funding those programs that are vital to the creation of vibrant Indian Nations. Such a commitment, coupled with continued efforts to strengthen tribal governments and to clarify the government-to-government relationship, truly will make a difference in helping us to create stable, diversified, and healthy economies in Indian Country.

TESTIMONY OF MR. LYLE JACK, CHAIRMAN OGLALA SIOUX TRIBAL COUNCIL EDUCATION COMMITTEE PRESIDENT'S 2005 BUDGET REQUEST

Mr. Lyle Jack is a member of the Oglala Sioux Tribal Council. He is one of three representatives from the Pine Ridge Village. Mr. Jack is the Chairman of the Tribal Council's Education Committee. The following is a summary of Mr. Jack's concerns regarding the President's 2005 budget request.

BUREAU OF INDIAN AFFAIRS OFFICE OF INDIAN EDUCATION PROGRAMS CONSTRUCTION: The President's budget request eliminates funding for new construction projects. This adversely affects the Oglala Sioux Tribe and completely ignores prior commitments and current needs. Twice in the past three years the Pine Ridge School has received a commitment from OIEP for the construction of a new dormitory to replace the existing facilities which by the BIA's own admission are unsafe and too costly to repair. Both the BIA and the school have documented the need for a replacement facility that would be conducive to providing therapeutic services. It is important to realize that residential services of the modern era are not the services of a hundred years ago. Today there is a need to provide services that provide a wide range of therapies dependent upon the need of the individual student. The dormitory concept is not a "dumping" ground but one of a nurturing environment that can cause positive mental and physical growth that a student does not have in a home environment. The existing facilities are currently overcrowded and the school has a waiting list of students who need residential services. This adversely affects parents of the students on the waiting list by causing them to enroll their children at off-reservation boarding schools. Not coincidentally this is in direct contradiction of the 1929 Merriam report and the 1969 Kennedy report which both recommend keeping students on the reservation. THE OGLALA SIOUX TRIBE IS REQUESTING $13M FOR A THERAPEUTIC RESIDENTIAL FACILITY TO ACCOMMODATE 200 STUDENTS TO REPLACE THE EXISTING RESIDENTIAL FACILITIES AT THE PINE RIDGE SCHOOL.

The Loneman School is the most dilapidated and unsafe school in the BIA system. The need to replace this school is well documented, by not only the BIA but by external expert consultants as well. The overall structural integrity of the facility is unsafe and the safety deficiencies are numerous and extremely costly to correct. The safety of the students and staff is of serious concern to parents and Tribal officials. In addition the school is grossly overcrowded. Currently the school has to utilize seventeen portable classrooms which are external to the main facility and this causes extreme fiscal and administrative difficulties for classroom scheduling, student safety, student functions, and maintenance items such as heating, fire alarms, and security not to mention the inconvenience of students during times of inclement weather or safety such as tornadoes. THE OGLALA SIOUX TRIBE IS REQUESTING $1 M FOR THE PLANNING AND DESIGN OF A NEW FACILITY TO REPLACE THE LONEMAN SCHOOL.

BUREAU OF INDIAN AFFAIRS OFFICE OF INDIAN EDUCATION PROGRAMS POLICY: The BIA/OIEP is attempting to unilaterally introduce a regulation whereas the BIA-OIEP can close, consolidate, transfer to another authority, or substantially curtail a program for BIA-funded schools. This is a direct violation of the treaty rights of the Oglala Sioux Tribe and an affront to the intent of P.L. 93-638 , 95-561, and the current law, No Child Left Behind, which

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TESTIMONY OF MR. LYLE JACK ~ PRESIDENT'S 2005 BUDGET REQUEST
PAGE 2

clearly states that this action cannot be taken without the approval of the tribal governing body, not to mention the federal policy of government-to-government relationship. By law the BIA/OIEP is required to conduct meaningful and substantive consultation with Indian tribes before causing change that has a direct impact upon the Tribes. AND the BIA/OIEP has submitted a plan to the deputy director of the BIA that would reorganize the services provided by the BIA/OIEP education line officers who serve the schools throughout the nation. Throughout the history of the BIA/OIEP there has been reorganization without approval of the Indian treaty tribes who are most affected by such action. BIA/OIEP reorganization is akin to a snake molting. There is a shiny new snake but it is still a snake, no offense to snakes. The BIA/OIEP admits that this is a consultation item and that the item was provided for consultation during 2003. Despite the bleating of the current director of OJEP this item was wrongfully presented. To demonstrate this point the Oglala Sioux Tribe asks that the Interior appropriations subcommittee review this item as presented to the Indian tribes. The item was clearly not stated as a reorganization topic thus misleading Indian tribes and Indian educators and thereby causing a dearth of appropriate and comprehensive responses. This is of grave concern to the Oglala Sioux Tribe. The Pine Ridge Sioux Indian Reservation, by itself, has seven BIA-funded schools. This alone is more than any state except New Mexico, Arizona, and North Dakota. By nature of numbers the Oglala Sioux Tribe is entitled to input as to any policy decisions which can adversely effect the BIA funded schools on the Pine Ridge Sioux Indian Reservation especially as how it relates to treaty obligations for education. THE OGLALA SIOUX TRIBE REQUESTS THAT APPROPRIATION LANGUAGE BE INCLUDED THAT PROHIBITS THE BIA/OIEP FROM ENACTING ANY AND ALL POLICY CHANGES WITHOUT CONSULTATION WITH ALL TRIBES, AS PROVIDED BY LAW, THAT ACCURATELY DESCRIBES PROPOSED CHANGES AND THAT BEFORE ENACTING POLICY CHANGES THAT ADVERSELY EFFECT THE OGLALA SIOUX TRIBE THAT THE TRIBE BE INDIVIDUALLY CONSULTED FOR CONSENT AND APPROVAL BEFORE ANY PROPOSED CHANGES ARE ENACTED.

Further, the BIA/OIEP has failed to address the contradictions of the No Child Left Behind Act and the treaty obligations to Indian tribes, (which are further substantiated by PL's 93-638, 95-561, and 100-297), which have caused confusion and anxiety among Indian tribes and BIA funded schools throughout the nation. The Oglala Sioux Tribe maintains that treaty obligations supercede onerous administrative initiatives that threaten treaty obligations to Indian tribes. THE OGLALA SIOUX TRIBE REQUESTS THAT LANGUAGE BE INCLUDED THAT STATES THAT INDIAN TREATY TRIBES BE EXEMPTED FROM THE NO CHILD LEFT BEHIND ACT AND THAT ALL AND ONLY TREATY TRIBES BE INVOLVED IN AN INDIAN "NO CHILD LEFT BEHIND ACT" AND THAT THIS LANGUAGE INCLUDES THE COOPERATION OF THE BIA/OIEP.

The BIA/OIEP has had access to funds to develop a criterion referenced standardized academic performance test. The Oglala Sioux Tribe recognizes the inability of the BIA/OIEP to address the diversity of the tribes throughout the nation. There are more than 107,000 members of the Great Sioux Nation residing on the Northern Plains and there are nineteen BIA funded schools and six tribal colleges serving students of the Great Sioux Nation. To meet any terms of the No

TESTIMONY OF MR. LYLE JACK ~ PRESIDENT'S 2005 BUDGET REQUEST
PAGE 3

Child Left Behind Act and to accurately measure adequate yearly progress by a non biased culturally relevant assessment there needs to he developed a criterion referenced standardized test that meets or exceeds currently accepted testing instruments for the students of the Great Sioux Nation. THE OGLALA SIOUX TRIBE REQUESTS THAT LANGUAGE BE INCLUDED WHICH AUTHORIZES THE SUM OF $200M TO INITIATE THE DEVELOPMENT OF SUCH A TEST AND THAT THIS AUTHORIZATION INCLUDE LANGUAGE THAT THE DEVELOPMENT OF THIS ASSESSMENT BE THE RESPONSIBILITY OF A DESIGNATED TRIBAL COLLEGE WHICH SERVES MEMBERS OF THE GREAT SIOUX NATION AND/OR THAT FISCAL RESOURCES CURRENTLY AVAILABLE TO THE BIA/OIEP FOR THIS PURPOSE BE APPLIED TO THIS OBJECTIVE.

The Loneman School, a BIA funded grant school, of the Pine Ridge Sioux Indian Reservation has, in the past two years, initiated one of the most comprehensive Lakota language preservation, maintenance, and development curriculum projects in the history of Indian education. To continue this project the Loneman School will need additional fiscal resources to further enhance the culture of the Oglala Sioux Tribe. The project will not be completed for two more years. When completed, this curriculum will be made available to all BIA funded schools and to public schools that serve students of the Great Sioux Nation. For fiscal year 2005 the Loneman School is requesting a mere $75,000.00 to continue this project. THE OGLALA SIOUX TRIBE IS HEREBY REQUESTING THAT LANGUAGE BE INCLUDED TO AUTHORIZE AN APPROPRIATION TO CONTINUE THIS PROJECT.

Since 1970 over 700 members of the Oglala Sioux Tribe have attended and were graduated from the United Tribes Technical College, Bismarck, ND. Beginning in 1968 the college was the only vocational technical college in the nation which provided adult vocational education to Indian people. Today the college continues its original mission and is the most thriving Indian technical college in the nation. The Oglala Sioux Tribe currently has thirty-two students attending the college. The Oglala Sioux Tribe is extremely supportive of this college and is dismayed at the annual appropriations threat suffered by the college The college has more than demonstrated its capability and role in the education of Indian people of the Northern Plains. To continually deny this college adequate and reliable funding is a direct violation of the treaty rights guaranteed for vocational education. THE OGLALA SIOUX TRIBE IS HEREBY REQUESTING THAT FUNDING FOR THE UNITED TRIBES TECHNICAL COLLEGE BE RESTORED ON A RECURRING BASIS AND THAT FOR FY-2005 $3M BE APPROPRIATED FOR OPERATION AND THAT $1M BE APPROPRIATED FOR GROWTH AND EXPANSION.

The Oglala Sioux Tribe was individually responsible for the authorizing language in PL 100-297 for the development of tribal departments of education. The BIA/OIEP is incapable of enforcing or supporting the demands of the No Child Left Behind Act. The Oglala Sioux Tribe has the reputation of enforcing tribal law and holding the grant schools accountable. The sole purpose of the concept of tribal departments of education was to ensure accountability, both academic and fiscal, of the schools of the Pine Ridge Sioux Indian Reservation. The BIA/OIEP has never supported a tribal role in education and has recently taken an adversarial role that assumes that

TESTIMONY OF MR. LYLE JACK ~ PRESIDENT'S 2005 BUDGET REQUEST
PAGE 4

tribes are usurping the federal role in the education of Indian students. To the contrary the tribes view the BIA/OIEP as, "our dog, fleas and all", and that the tribes have more at stake in the operation of Indian education than the BIA/OIEP. The BIA has never requested funding for tribal departments of education except on the terms of the OIEP. The Oglala Sioux Tribe was the first tribe in the nation to establish a tribal code of education and in 2003 reestablished the tribal education code and is currently revisiting the role and purpose of a tribal department of education since the passage of the No Child Left Behind Act. Currently the Oglala Sioux Tribe has only a paltry sum of $78,000.00 (that does not support two full-time employees) to operate any semblance of a tribal education department. In light of the fact that the BIA/OIEP cannot cause school improvement but only act in a punitive fashion it is imperative that a tribal department of education be established so as to fulfill the treaty obligations of the federal government. A two-step method is proposed by the tribe and that would involve funding the tribe's current program to accommodate four full time employees and that funds be made available to implement a rudimentary tribal department of education. THE OGLALA SIOUX TRIBE IS REQUESTING THAT THE SUM OF $225,000 BE "EARMARKED" FROM THE NATIONAL TRIBAL PRIORITY ALLOCATION FUND FOR THE TRIBE'S EXISTING PROGRAM AND THAT LANGUAGE BE INCLUDED FOR THE DIRECT DEVELOPMENT OF TRIBAL DEPARTMENTS OF EDUCATION ON A RECURRING BASIS AND THAT THE OGLALA SIOUX TRIBE BE IDENTIFIED AS THE FIRST RECIPIENT OF SUCH FUNDS IN THE AMOUNT OF $1.1M.

The Tribe's higher education institution, Oglala Lakota College, is the second oldest and second largest Tribal college in the nation. The Oglala Lakota College has an annual enrollment in the excess of one thousand one hundred students. The college provides educational support services to the Tribe and to other institutions on the reservation. In addition, the college has a satellite center in Rapid City where both Indian and non-Indian students can further their careers. Operational money is very restricted. THE OGLALA SIOUX TRIBE STRONGLY SUPPORTS THE AMERICAN INDIAN HIGHER EDUCATION CONSORTIUM'S REQUEST FOR AN INCREASE OF $54.5 MILLION IN AID FOR TRIBAL COLLEGES.

Statement of Senator Tim Johnson
Senate Committee on Indian Affairs
February 11, 2004

Chairman Campbell, Vice, Chairman Inouye, members of the Committee, thank you for holding this hearing on the vital issue of funding for Indian programs. I will keep my comments brief but I do want to highlight a few of the problems I have with the President's budget.

Needless to say, I am more than a little disappointed with the President's priorities. We are spending a billion a week over in Iraq, building hospitals and schools, while the President proposes that we cut funding for construction of hospitals and schools here at home. The President recommends that IHS health facilities construction would be gutted from $94 million in 2004 to $42 million in 2005. Additionally, overall, the BIA school construction account is being cut by $65.9 million. There are over forty schools desperately waiting for construction and repair. The backlog is long and the need is immediate. The President's proposal makes no sense.

Broadly speaking, I am concerned that the President wants to fund trust reform at the expense of Indian programs. While trust reform is necessary and I'm encouraged that the President has increased the amount of money going towards the buying back of fractionalized land, it is implorable that the Office of Special Trustee is getting such a huge advance and the tribes suffer.

The injustice in the budget is rife with examples. Important to my South Dakota tribes is the President's request pertaining to the tribal priority allocation (TPA) funding. The President's request is $775.6 million, a small increase of $4.9 million. TPA funds are critical because tribes use them to carry out day-to-day government programs and functions. The President's request is simply inadequate, therefore impeding self determination.

Within BIA and OST, there is an initiative that I found particularly interesting -- the creation of a new Office of Tribal Consultation at BIA with a whopping $1.1 million budget. The President wants to create an office to do a function that his administration is already required to do. I'm sure President Steele, who is sitting here in the audience today, can find much better uses for $1.1 million dollars on the Pine Ridge reservation, where, as we speak, his constituent are wondering how they are going to heat their homes tomorrow.

As the testimony today will reflect, every aspect of Indian funding is hurting – housing, healthcare, education, infra-structure. I understand that this is a tough fiscal year and I understand that the tribes won't get every need fulfilled. However, there are many problems with the President's budget. We must do better. As a member of the Budget and the Appropriations Committee, and working closely with Senators Campbell and Inouye, I will do what I can to correct those problems.

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HEARING: The President's Fiscal Year 2005 Budget for the Indian Health Service

WITNESS: Don Kashevaroff, Chairman/President, Alaska Native Tribal Health Consortium

BEFORE: The Senate Committee on Indian Affairs
February 11, 2004, 9:30 AM
Russell Senate Office Building, Room 485

SUMMARY

1. **The President's proposed FY2005 budget for the Indian Health Service is not adequate to make meaningful progress towards achieving the President's goal of narrowing the American Indian/Alaska Native health disparities gap.**

2. **The President's proposed FY 2005 budget for Indian Health Service, by significantly under funding contract support costs for both existing and new and expanded tribal health programs, has created a major disincentive for Tribes to compact IHS programs pursuant to the President's policy goal that, "we don't want the federal government running health care" (Washington Post, Jan 29, 2004).**

INTRODUCTION

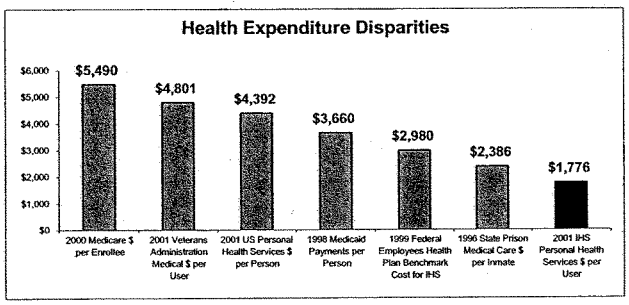
Chairman Campbell and members of the Committee, thank you for the opportunity to testify on the President's 2005 Budget for the Indian Health Service.

By way of introduction, the Alaska Native Tribal Health Consortium is the largest privately managed Indian Health Service program in America, managing over $125 million annually in IHS program and project funds. Our services encompass the Alaska Native Medical Center (ANMC), a 150-bed acute care hospital, as well as the Division of Environmental Health and Engineering (DEHE), which constructs most of the health facility and sanitation systems in rural Alaska.

We employ over 1600 staff in Anchorage and in rural Alaska, including over 600 Indian Health Service employees assigned under Intergovernmental Personnel Agreements and over 100 Commissioned Officers assigned under Memoranda of Agreement. Our vision is *"a unified Native health system, working with our people, achieving the highest health status in the world."*

In short, we are the front line in carrying out the President's mandate to narrow the health disparities gap between Alaska Natives and the general population. It is not an easy task—Alaska Natives have significant health disparities in areas such as cancer rates, respiratory diseases, communicable diseases, alcoholism, diabetes and diseases associated with a lack of basic sanitation systems.

Thus, IHS funding critically impacts our ability to provide adequate primary and tertiary care health services; adequate maintenance and construction funding for village clinics and other facilities; and construction and maintenance of the most basic water and sewer systems in Alaska Native villages.



I've included a graph taken from the recent IHS Business Plan that shows the per capita expenditures of various groups. As you can see, IHS personal health services fall way behind the rest of the population, including expenditures for prisoners.

FUNDING FOR ALASKA TRIBAL HEALTH FALLS FAR SHORT OF THE NEED

Throughout Indian Country, the need for funding to make any sort of significant progress in closing the health disparities gap continues to be a great challenge. At ANMC, for example, we have been challenged with over 10 percent annual growth in patient encounters; nearly 10 percent annual increases in costs; and a fast-growing overall service population, while at the same time, FY 2001 through FY 2004 IHS funding has only increased at levels of 1.96 percent, 3.20 percent, 2.41 percent, and 1.21 percent respectively.

Now compare IHS's small funding increases to other healthcare cost indexes. According to the newly released report by Katie Levit, Director of National Health Statistics Group, CMS, (published in *Health Affairs* -Volume 23, Number 1), Medicare funding grew at 8.5 percent in 2001 and 9.3 percent in 2002. Medicaid expenditures grew by over 10 percent those two years. In addition, drug expenditure growth was over 15 percent in the same years.

This variance between actual costs of operations and actual funding levels has created significant problems for our health care delivery system in Alaska. At ANMC, we suffer from chronic budget shortfalls, recurrent staffing challenges, and severe clinic space shortages. In particular:

- STAFFING COSTS are rising by over $2 million per year. For Fiscal Year 2004, the mandatory Federal employee pay increase was for 4.1 percent, which we had to give to all of our employees, including our hundreds of Federal officers and employees. This cost us $2.3 million. However, our IHS funding for all personnel costs only rose a little more than

$600,000 in that same year. This created a $1.7 million shortfall, which we had no choice but to pay for out of funds that otherwise would have been used for patient care.

- PHARMACEUTICAL COSTS have risen by double digits in each of the last five years, and are now costing us nearly $15 million per year. Because we received only nominal IHS funding increases to help pay for these costs, we have had no choice but to pay for the vast majority of these costs out of funds that otherwise would have been used for patient care.

- FACILITY UPKEEP COSTS must also be made to keep up with our ever-increasing patient encounter volumes. ANMC had to invest over $4 million in facility upgrades the last two years, again, with no IHS funding increase to pay for it, and again, out of funds that otherwise would have been used for direct patient care.

- HEALTH INFORMATION TECHNOLOGY COSTS also continue to rise. Quality patient care, quality medical records systems, effective compliance systems, and effective billing and collections systems require a first rate health information system. ANMC has had to invest over $6 million in information system upgrades, above and beyond the ordinary recurring costs of maintaining our information systems, and will continue to invest heavily in these systems on an ongoing basis in the future. Because we received only nominal IHS funding increases to help pay for these costs, and because paying these costs are critical to narrowing the health disparities gap, we have had no choice but to pay for the vast majority of these costs out of funds that otherwise would have been used for patient care.

The Indian Health Service Business Plan recognized this problem last year when it calculated the number of patients that would not get treatment if IHS did not receive an adequate budget increase. I do not know if anyone has recalculated the figures, but since the last year's budget was quite flat, I suspect that the graph will still be accurate for FY05.

	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Inpatient Admissions	61,200	55,500 (-9.3%)	56,800 (-7.1%)	57,600 (-5.8%)	58,000 (-5.2%)	61,200
Outpatient Visits	8,293,000	7,671,000 (-7.5%)	7,845,700 (-5.3%)	7,962,000 (-3.9%)	8,012,000 (-3.3%)	8,293,000
Dental Visits	2,536,000	2,331,500 (-8.0%)	2,423,000 (-4.4%)	2,451,700 (-3.3%)	2,451,700 (-3.3%)	2,536,000
CHS Outpatient Visits	492,700	484,025 (-1.7%)	484,025 (-1.7%)	487,800 (-0.9%)	500,000 (+1.4%)	492,7000

("Services Projection Summary" shows the relative increases/decreases in performance that might be expected under various budget projections.)

Basically IHS needed $199 million last year to have the same "output level". This was essentially the amount needed to keep from losing ground and serving less Indians than the year before. IHS ended up with a 1.21 percent increase for FY2004. If IHS's assumptions hold true, in FY 04, IHS will have decreased its "output level" by about 4,500 inpatient admissions, 485,000 outpatient visits, 141,000 dental visits and 8,000 CHS visits. Since the Administrations FY2005 budget is near the 2.2 percent increase column, how much more "output" will IHS lose next year?

At our health facility and sanitation division, DEHE, we have determined that statewide, Alaska Native communities have prioritized unmet needs in sanitation facilities that exceed $650 million, and prioritized unmet needs in health facilities that exceed $570 million. While I applaud the Administration adding $10 million to the Sanitation line, the reduction of $37 million from the overall Facility category will not help us bridge the health disparities gap.

Mr. Steve Weaver, Director, DEHE, of the Alaska Native Tribal Health Consortium previously testified to this Committee regarding the details of Alaska's sanitation and health facilities needs from both a numbers perspective and a human perspective. We would refer you to Mr. Weaver's testimony last year as evidence that the President's current proposed funding for facilities and sanitation programs falls far short of what will be needed to make any meaningful impact in the health disparities gap.

I would like to thank the Administration for increasing the Community Health Aides/Practitioners and Contract Health budgets. But the increases while welcome, still fall short of the great need in both areas.

FUNDING FOR CONTRACT SUPPORT COSTS IS INADEQUATE

The Alaska Native Tribal Health Consortium is under funded by over $8 million per year in contract support funding, calculated on the basis of a statutorily-authorized, negotiated contract support cost rate. These chronic underpayments severely undermine our ability to provide services to Alaska Natives.

Although we have been able to cut our administrative overhead to the bare minimum, due in part to excellent management practices, the fact is, allowable contract support costs are very legitimate and very real, as is documented on OMB Cost Principle Circulars A-87 and A-122.

My testimony to you today is that ANTHC is under funded many millions of dollars per year in legitimate contract support costs, and that because we have already cut our actual, OMB-allowable contract support costs to the bare minimum, the amounts that we are under funded do not have the effect of improving our efficiency (which is already optimized), but rather, has the effect of reducing the amounts available for direct health services.

If I may put it more directly: When the government outsources or otherwise enters into a contract with a private firm, it negotiates the best deal it can. As a part of that negotiation, the government and the contractor agree on the total amount, including allowable administrative costs. The government then pays these agreed upon amounts as the private firm carries out the contract.

When the government enters into a contract or compact with a Tribe or tribal organization, it enters into a similar type of negotiation or agreement, including a negotiated allowable amount for contract support costs. However, with Tribes and tribal organizations, the government chronically breaks its agreement on the negotiated contract or compact amount after the fact by significantly under funding contract support costs in the budgeting and appropriations process. Why are Tribal contractors treated worse than private contractors with regard to administration costs?

Taking the President at his word, if it is truly a national policy goal that "the best health care system is that health care system generated in the private markets," and that "we don't want the federal government running health care," I would recommend that this Administration, at all levels, consider reconciling this policy goal with actual contract support cost budgeting and funding processes, which is clearly a disincentive Tribes and tribal organizations from contracting or compacting with the Indian Health Service to carry out the statutory policy purposes of tribal self-determination.

Thank you again for the opportunity to testify before you this morning. I welcome any questions.

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Testimony of
Cindy La Marr, President
National Indian Education Association
before the
Senate Committee on Indian Affairs
on the FY 2005 Budget Request
February 11, 2004

Chairman Campbell and Vice-Chairman Inouye and Members of the Senate Committee on Indian Affairs, thank you for this opportunity to submit testimony on behalf of the National Indian Education Association with regard to the FY 2005 budget.

Founded in 1969, the National Indian Education Association (NIEA) is the largest organization in the nation dedicated to Indian education advocacy issues and embraces a membership of over 4,000 American Indian, Alaska Native and Native Hawaiian educators, tribal leaders, school administrators, teachers, parents and students.

NIEA makes every effort to advocate for the unique educational and culturally related academic needs of Native students, and to ensure the Federal government upholds its immense responsibility for the education of American Indian and Alaska Natives through the provision of direct educational services. This is incumbent upon the trust relationship of the United States government and includes the responsibility of ensuring educational equity and access. Recognition and validation of the cultural, social and linguistic experiences of these groups is critical in order to guarantee the continuity of Native communities. The way in which instruction and educational services are provided is critical to the achievement of our students for them to attain at the same standards of students nationwide.

Making Education a Priority for Native Students. In the Senate Committee's Views and Estimates Report on the President's FY 2004 Budget Request for Indian Programs, it states "the educational attainment for Native youth is deficient compared with other groups in the U.S. An aggravating factor in educational achievement is the continued inability of the Federal government to ensure adequate, safe and clean educational facilities conducive to learning."

No Child Left Behind Act. Although the National Indian Education Association supports the broad based principles of No Child Left Behind, there is widespread concern about the many obstacles that the NCLB presents to Indian communities, who often live in remote, isolated and economically disadvantaged communities. There is no one more concerned about accountability and documenting results than the membership of our organization, but the challenges many of our students and educators face on a daily basis make it difficult to show adequate yearly progress or to ensure teachers are the most highly qualified.

The requirements of the statute and its time frame for results do not recognize that schools educating Native students have an inadequate level of resources to allow for the effective development of programs known to work with Native students. For example, the appropriation available under Title VII of the No Child Left Behind Act provides only a few hundred dollars per student to meet the special education and culturally related needs of our students.

The implementation of the statute does not include within the definition of "highly qualified teacher" the idea that teachers educating Native students actually have the training and demonstrated experience in order to be effective teachers of Native students. Not only is there inadequate funding for NCLB, there are serious concerns about confused guidance on adequate yearly progress mandates, inadequate assessment examples for limited English proficient students, weakened protections to prevent high dropout rates to occur, a lack of focus on parental involvement, recognition of paraprofessional's qualifications, and a basic denial of civil rights protections for children.

The FY 2005 President's Budget Leaves Indian Children Behind. President Bush's budget proposes a 4.8% increase to education, to $66.4 billion in total budget authority for the

Department of Education. But Indian program funding remains at the same level as FY 2004, with some programs slated for elimination. In addition, the $120.9 million for FY 2005 is down from the FY 2003 level of $121.6 million. The request for Alaska Native Education and Native Hawaiians is kept at $33.3 million for each group, or the FY 2004 level. Native communities are not only denied equal access to a quality education at FY 2003 levels, they are now asked to shoulder an even more atrocious burden, by being subjected to even deeper cuts.

FY 2005 Department of Education Budget Request. Nearly 90% of the approximately 500,000 Indian children attend public schools throughout the nation. Indian students who attend these schools often reside in economically deprived areas and are impacted by programs for disadvantaged students. The President's FY 2005 budget fails to fully fund the Title I low-income school grants program critical to closing achievement gaps. An increase of $1 billion for this program still leaves more than $7 billion below the authorized level for NCLB. The Individuals with Disabilities Education Act (IDEA), is proposed to be funded at less than half the full funding level when the IDEA was first adopted in 1975. These inadequate increases also eliminate 38 education programs that provide vital services to Indian children, such as dropout prevention, gifted and talented education, school counseling, and after-school programs, to name a few. If the FY 2005 budget is enacted, the proposed increase of 4.8% would be the smallest increase since FY 1996, and would completely disregard Native students critical needs.

FY 2005 Department of the Interior Budget Request. The overall Interior budget is proposed to be cut by 0.5%. Within that budget, there is a $52 million reduction in funding for the Bureau of Indian Affairs, reducing that agency's budget by 2% too $2.3 billion.

There are only two education systems for which the Federal government has direct responsibility: the Department of Defense Schools and Federal and Tribally operated schools that serve American Indian students. The federally supported Indian education system includes 48,000 students and 29 tribal colleges, universities and post-secondary schools. The federal government's responsibility for the education of Native peoples is in response to specific treaty rights; however to us, the FY 2005 budget signifies an increased negligence of its trust responsibility. Proposed cuts include:

- **Indian School Construction Funding**. During President Bush's first term, he promised to remove the backlog for new Indian school construction. With the FY 2005 Budget, Indian school construction funding is proposed to be cut $65.9 million, from FY 2004's appropriation of $229.1 million. The rationale is the Office of Management and Budget wants more schools completed and the rate of school construction has fallen behind. This can be due to a number of factors, including bureaucracy delays, contracting delays or weather conditions. We urge you to ask the Bureau of Indian Affairs to get its house in order to step up this process and urge the restoral of school construction funding that is necessary to meet the needs of Indian students.
- **Indian Education Facilities Improvement and Repair Funding.** The continued deterioration of facilities on Indian land is not only a federal responsibility; it has become a liability of the federal government. The FY 2005 Budget Request cuts facilities improvement and repair by $6.1 million, from $137.5 million. There is a known backlog of hundreds of million of dollars in critical repair needs. We urge not only restoration of funds to the FY 2004 level, but an increase that will realistically address the needs of Indian children who must try to learn in buildings that are not conducive to learning. It is unfair to hold Indian children hostage in their right to a successful education.
- **Impact Aid Funding**. The Impact Aid program directly provides resources to state public school districts with trust status lands within the boundaries of a school district for operational support. Funding that affects schools that serve Indian children who reside on or near federal land is impacted and remains at the same levels as FY 2004.
- **Tribal Colleges and Universities Funding**. The FY 2005 Budget Request cuts $5.8 million to $43.4 million for tribal colleges and universities, an inadequate amount.

Additional Funding Needs:

- **Tribal Departments of Education.** True success can be attained only when tribes can assume control of their children's educational future. As mandated in many treaties and as authorized in several federal statutes, the education of Indian children is an important role of Indian tribes. The authorization for TED funding was retained in Title VII,

Section 7135 of the No Child Left Behind Act. Despite this authorization and several other prior statutes, federal funds have never been appropriated for Tribal Departments of Education. Achieving tribal control of education through TEDs will increase tribal accountability and responsibility for their students, and will ensure that tribes exercise their commitment to improve the education of their youngest members.

For FY 2005, we are requesting a total of $3 million, or $250,000 per tribe for twelve tribes to initiate the process of their Education Departments and to finally begin the process of empowering tribes to direct their own educational priorities that reflects their linguistic, cultural and social heritages and traditions.

Native American Languages Act. The preservation of indigenous languages is of paramount importance to Native communities. It is estimated that only 20 indigenous languages will remain viable by the year 2050. We must begin the legislative process to ensure there is some substance in the Native American Languages Act for projects that address the crisis of our language losses.

NIEA urges this Committee's support for additional funding that will address language needs of communities with less than a handful of elderly fluent speakers. NIEA, in partnership with other organizations, is willing to assist in the identification of needs and funding required for this process to begin.

Johnson O'Malley Funding. In 1995, a freeze was imposed on Johnson O'Malley funding through the Department of the Interior, limiting funds to a tribe based upon its population count in 1995. This freeze prohibits additional tribes from receiving JOM funding and does not recognize increased costs due to inflation and accounting for population growth.

NIEA urges that the Johnson O'Malley funding freeze be lifted, and other formula-driven and "head-count based" grants be analyzed to ensure tribes are receiving funding for their student populations at a level that will provide access to a high quality education for Indian students.

Conclusion. NIEA respectfully urges this Committee to truly make Indian education a priority and to work with the Congressional appropriators and the Administration to ensure that Indian education programs are fully funded. We encourage an open dialogue and are willing to work with you to build a more reasonable and less punitive approach that takes into account our experience in Indian education since the passage of the Indian Education Act of 1972. NIEA was instrumental at that time in assisting the Congress in conceiving ideas and recognizing the need for improvement in the effectiveness and quality of education programs for Native students.

Please join with NIEA and other organizations established to address the needs of Native students to put our children at the forefront of all priorities. We must work with the Bureau of Indian Affairs, the Department of Education, and tribal leaders to ensure our children are not left behind. Without acknowledgement of our children, who are our future, our triumph, and our link to the past, and their educational achievement, there will be no need for tribal sovereignty's continuation.

NATIONAL INDIAN HEALTH BOARD

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Statement of H. Sally Smith, Chairman

National Indian Health Board

On the

Fiscal Year 2005 Budget for American Indian and Alaska Native Programs

February 11, 2004 – 9:30 a.m.

Senate Russell Building, Room 485

Chairman Campbell, Vice-Chairman Inouye, and distinguished members of the Senate Indian Affairs Committee, I am H. Sally Smith, Chairman of the National Indian Health Board. I am Yupik from Alaska and also represent the Bristol Bay Area Health Corporation in southwestern Alaska. On behalf of the National Indian Health Board, it is an honor and pleasure to offer my testimony this morning on the President's Fiscal Year 2005 Budget for Indian Programs.

The NIHB serves nearly all Federally Recognized American Indian and Alaska Native (AI/AN) Tribal governments in advocating for the improvement of health care delivery to American Indians and Alaska Natives. We strive to advance the level of health care and the adequacy of funding for health services that are operated by the Indian Health Service, programs operated directly by Tribal Governments, and other programs. Our Board Members represent each of the twelve Areas of IHS and are elected at-large by the respective Tribal Governmental Officials within their regional area.

I am here today calling upon Congress and the Administration to address the funding disparities that continue to hamper Indian Country's efforts to improve the health status of American Indians and Alaska Natives. No other segment of the population is more negatively impacted by health disparities than the AI/AN population and Tribal members suffer from disproportionately higher rates of chronic disease and other illnesses. A few examples of those disparities were just released by the Centers of Disease Control and Prevention (CDC) and include:

Chronic diseases - Heart disease and cancer are the leading causes of death for Native Americans. The prevalence of diabetes is more than twice that for all adults in the United States, and the mortality rate from chronic liver disease is more than twice as high, according to 2002 data.

Infant Mortality - The infant mortality rate is 1.7 times higher than non-Hispanic whites. The sudden infant death syndrome (SIDS) rate is the highest in the nation; more than double that of the white population in 1999.

Sexually transmitted diseases (STDs) - In 2001, the syphilis rate was 6 times higher than the rate among the non-Hispanic white population, the Chlamydia rate was 5.5 times higher, the gonorrhea rate was 4 times higher and the AIDS rate was 1.5 times higher.

Injuries - Unintentional injuries are the third leading cause of death and the leading cause for Natives aged 1-44 years. Death rates for unintentional injuries and motor vehicle crashes are 1.7 to 2.0 times higher than the rates for all racial/ethnic populations, while suicide rates youth are 3 times greater than rates for whites of similar age.

Indian Country has continuously advocated for equitable health care funding. Health care spending for AI/AN's lags far behind spending for other segments of society. For example, per capita expenditures for AI/AN beneficiaries receiving services in the IHS are approximately one-half of the per capita expenditures for Medicaid beneficiaries and one-third of the per capita expenditures for VA beneficiaries. In fact, the federal government spends nearly twice as much money for a federal prisoner's health care that it does for an American Indian or Alaska Native.

Further exacerbating the current funding situation are the challenges our Nation faces relating to the war in Iraq and the fight against terrorism, which have further shifted fiscal priorities away from American Indian/Alaska Native health-related initiatives. While we are aware of the fiscal challenges facing our Nation, and as American Indians and Alaska Natives continue to serve in the military at higher rates than other segments of the population, we ask that you ensure that the health needs of American Indians and Alaska Natives are protected during this time.

At this point in my testimony, I would like to illustrate the challenges we face as Tribal leaders as we desperately fight to improve the status of our people.

According to the Indian Health Service, American Indians and Alaska Natives have a life expectancy six years less than the rest of the U.S population. Rates of cardiovascular disease among American Indians and Alaska Natives are twice the amount for the general public, and continue to increase, while rates for the general public are actually decreasing. American Indians die from tuberculosis at a rate 500 percent higher than other Americans, and from diabetes at a rate 390 percent higher.

Public health indicators, such as morbidity and mortality data, continue to reflect wide disparities in a number of major health and health-related conditions, such as Diabetes Mellitus, Tuberculosis, alcoholism, homicide, suicide and accidents. These disparities are largely attributable to a serious lack of appropriated funding sufficient to advance the level and quality of adequate health services for American Indians and Alaska

Natives. Recent studies reveal that almost 20% fewer American Indian and Alaska Native women receive pre-natal care than all other races and they engage in significantly higher rates of negative personal health behavior, such as smoking and alcohol and illegal substance consumption during pregnancy.

The greatest travesty in looking at the deplorable health of American Indians comes in recognizing that the vast majority of illnesses and deaths from disease could be preventable if funding was available to provide even a basic level of care. It is unfortunate that despite two centuries of treaties and promises, American Indians are forced to endure health conditions and a level of health care funding that would be unacceptable to most other U.S. citizens

Trust Obligations of the Federal Government

The federal responsibility to provide health services to American Indians and Alaska Natives reflects the unique government-to-government relationship that exists between the Tribes and the United States. The importance of this relationship is reflected in the provisions of Article I, § 8, clause 3 of the United States Constitution, which gives the federal government specific authorities in its dealings with Indian Tribes.

Article VI, § (2) of the United States Constitution refers to all treaties entered into under the Authority of the United States as the "Supreme Law of the Land". Treaties between the federal government and our ancestors – negotiated by the United States government in return for the cession of over 400 million acres of Indian lands – established a Trust obligation under which the federal government must provide American Indians with health care services and adequate funding for those services. Additional Treaties, Statutes, U.S. Supreme Court decisions and Executive Orders have consistently reaffirmed this Trust responsibility.

The Snyder Act of 1921 has been the foundation for many federal programs for Tribes that have been instituted since its enactment, including programs targeting Indian health. It gives broad authority to Congress to appropriate funds to preserve and improve the health of American Indians and Alaska Natives.

Since 1964, three public laws have dramatically changed the delivery of health care to the Tribes. First, the Transfer Act of 1954 removed responsibilities for health care of American Indians and Alaska Native from the federal Department of the Interior to the, then, Department of Health, Education and Welfare. Essentially, one major Indian program was excised from a Department that had been responsible for a number of key programs for the Tribes. The subsequent transfer of Indian health to a Department with equal standing in the federal system elevated the health and welfare of American Indians and Alaska Natives to a status in which they became a primary focus of Department efforts.

Second, the Indian Self Determination and Education Assistance Act of 1975 changed forever the nature of relationships between Tribal organizations and the federal

government and revolutionized the manner in which health services were delivered in Indian country. The Act provided guidance and direction to IHS to enable it to work with Tribes to develop Tribal based health systems in which Tribal organizations were given tools with which to operate their own health programs.

With approximately half of all service funding through IHS now going to programs that are operated directly by Tribes, health care systems offering locally accessible, coordinated services that are capable of being more responsive to the needs of individual Tribal members are now widely available and expanding. In the 1998 NIHB study "Tribal Perspectives on Indian Self Determination and Self Governance in Health Care Management", 94 percent of the Tribal leaders and health system directors surveyed reported plans to enter into Self Determination or Self Governance agreements with the IHS. Tribally operated systems reported significantly greater gains in the availability of clinical services, community-based programs, auxiliary programs and disease prevention services. In most cases, Tribes contracting or compacting with IHS reported improved and increasingly collaborative relationships with the agency, with both IHS Area Offices and Tribal organizations working together to facilitate the transfer of program management.

Finally, with its comprehensive, far-reaching provisions, the Indian Health Care Improvement Act of 1976 created opportunities for enhancement of services to Tribes through innovative interventions that are responsive to the health needs of the Tribes and their members. Areas in various Tribes and the IHS have intervened to achieve positive changes under the Act include: virtually every component of service delivery; health profession training, recruitment and retention; targeted disease prevention and treatment; funding of health systems; and, mechanisms for integrating Tribal systems with federal programs, such as Medicaid and Medicare. Additionally, through periodic Reauthorizations, one of which will hopefully occur during this session, authority is given by Congress for IHS and Tribes to develop new strategies to improve components of programs in response to administrative, technical and professional trends and advances.

Yet, despite these Acts to achieve critically needed improvements in health systems serving Tribes, easily preventable health problems continue to plague the 1.6 million American Indians and Alaska Natives being served by the Indian Health Service and Tribal health providers.

The President's FY 2005 IHS Budget Request

The IHS FY 2005 budget request is $2.97 billion, an increase of $45 million over the FY 2004 enacted amount for the Indian Health Service. This continual under funding of the Indian Health Service costs our communities through diminished health and well-being as well as higher mortality rates than the rest of the population.

For the past two years, Tribal leaders have developed a "Needs-Based Budget" for Indian Health Service funding. The needs-based budget is developed through a careful

and deliberate process to ensure that it is reflective of the health needs of Indian Country.

The "Needs Based Budget" developed for FY 2005 documents the IHS health care funding needs at $19.4 billion. The FY 2005 budget request amount of $2.97 billion falls well short of the level of funding that would permit American Indian and Alaska Native programs to achieve health and health system parity with the majority of other Americans.

As we have carefully reviewed the President's FY 2005 IHS Budget Request, several provisions would seriously affect the agency's ability to carry out its responsibilities pertaining to the health and welfare of American Indians and Alaska Natives. Below, I will briefly discuss several of these provisions.

Sanitation Construction: The President's budget includes $103 million for sanitation construction, an increase of $10 million or less than 10 percent over the FY 2004 Budget Request. This increase is appreciated and demonstrates the Administration's commitment to providing safe water and waste disposal to an estimated 22,000 homes. Proper sanitation facilities play a considerable role in the reduction of infant mortality and deaths from gastrointestinal disease in Indian Country.

Epidemiology Centers: We are pleased that the Administration has requested $3 million for new epidemiology centers to serve the Navajo, Oklahoma, Billings and California areas as well as increasing support for the seven existing centers, which currently serve about half of the IHS-eligible service population.

Health Facility Construction: The budget includes a total of $42 million, a decrease of $52 million from FY 2004. The Administration proposes that the requested amount will provide necessary staff housing and complete construction of two health facilities. The thirteen units of staff housing at Zuni, New Mexico, and Wagner, South Dakota, will replaced 16 house trailers constructed during the 1950s and 1960s. With improved housing conditions, the Administration expects recruitment and retention of health professionals to increase at these sites. Once completed, the new Red Mesa Outpatient Facility on the Navajo reservation in Arizona will offer 24-hour emergency care. For the Sisseton-Wahpeton Sioux Tribe in South Dakota, their new outpatient facility will replace the Sisseton hospital built in 1936. These outpatient facilities will allow an additional 36,000 provider visits when construction is completed.

Pay Costs: The budget includes an additional $36 million to cover increased pay costs for IHS's 16,251 FTEs. This amount includes the new 106 additional FTEs proposed for the Indian Health Service. The Administration also proposes that the additional amount will allow tribally run health programs to provide comparable pay raises to their own staffs.

Contract Health Service Funding: The President's Budget Request includes $497 million, which provides an additional $18 million or 4 percent increase over the previous year's budget, for Contract Health Services. While we are very thankful for any increase, the proposed level of funding is so limited that only life-threatening conditions are normally funded. In most other cases, failure to receive treatment from providers outside the IHS and Tribal health system forces people in Indian country to experience a quality of life that is far below the level normally enjoyed by non-Indian Americans.

The documented need for the Contract Health Service Program in Indian Country exceeds $1 billion. At present, less than one-half of the CHS need is being met, leaving too many Indian people without access to necessary medical services. We recommend an increase of at least $175 million, which would raise American Indian and Alaska Native tribes to approximately 60 percent of need.

Contract Support Costs: The President's FY 2005 Budget Request includes $267 million, the same as the FY 2004 enacted budget, to support tribal efforts to develop the administrative infrastructure critical to their ability to successfully operate IHS programs. An increase in Contract Support Costs is necessary because as Tribal governments continue to assume control of new programs, services, functions, and activities under Self-Determination and Self-Governance, additional funding is needed. Tribal programs have clearly increased the quality and level of services in their health systems fairly significantly over direct service programs and failing to adequately fund Contract Support Costs is defeating the very programs that appear to be helping improve health conditions for American Indians and Alaska Natives.

We strongly urge reconsideration of this line item in the proposed budget. As Tribes increasingly turn to new Self Determination contracts or Self Governance compacts or as they expand the services they have contracted or compacted, funding necessary to adequately support these is very likely to exceed the proposed budgeted amount. We ask you to fund contract support costs at a level that is adequate to meet the needs of the Tribes and to further the important Trust responsibility charged to the federal government. We recommend an additional $100 million to meet the shortfall for current contracting and compacting.

Tribal Management/Self-Governance Funding: According to the President's FY 2005 Budget, the number of tribally managed IHS programs continues to increase, both in dollar terms and as a percentage of the whole IHS budget. Tribal governments will control an estimated $1.8 billion of IHS programs in FY 2005, representing 56 percent of the IHS's total budget request. Because of this, it is critical that funding for self-governance be provided in a manner reflective of this. Therefore, we feel it is necessary to provide funding over and above the proposed amount of $8 million. The FY 2003 budget cut the office of Self-Governance funding by 50% without any notice to tribes. The enacted budget for FY 2004 and the proposed FY 2005 budget both fail to increase the funding beyond $8 million enacted from FY 2003. For Tribal governments to continue managing IHS programs and other Direct Service Tribes to consider compacting, we ask that funding for self-governance be increased to $20 million.

The Need for Increased Preventative Health Efforts in Indian Country

A recent survey by the Centers for Disease Control (CDC) demonstrates the health problems faced by American Indians and Alaska Natives. The CDC contracted with the National Opinion Research Center at University of Chicago to conduct the REACH 2010 Risk Factor Survey. The survey was conducted during June 2001--August 2002 in 21 minority communities in the United States, two of which included 1,791 American Indians who participated in the survey. American Indians had the highest prevalence of obesity, current smoking, cardiovascular disease, and diabetes among both men and women in these four groups. Among all minority men, American Indians also had the highest prevalence of self-reported hypertension and high blood cholesterol levels. Among women, American Indians had the second highest prevalence. The survey also showed that over 80% of Americans Indians surveyed had one or more adverse risk factor or chronic condition while 35% had three or more. This survey by the CDC represents the health challenges faced by Indian Country and the need for additional resources to combat these deadly diseases and risk factors.

As the CDC survey demonstrates, the prevalence of chronic diseases such as cardiovascular disease in Indian Country is increasing and requires immediate attention. Due to a lack of adequate preventative care and education for American Indians and Alaska Natives, heart disease has become the leading cause of death among American Indians and Alaska Natives according to the CDC's 1997 report on cardiovascular disease risk factors. The prevalence of risk factors such as hypertension, current cigarette smoking, high cholesterol, obesity, and diabetes among American Indians and Alaska Natives needs to be addressed. As such, the Indian Health Service and Tribal health centers must receive additional resources to aggressively treat the risk factors and improve the overall health and well being of American Indian and Alaska Native communities.

Cardiovascular disease is also the leading cause of death among American women according to the American Heart Association. The prevalence of this disease among American Indian and Alaska Native women will continue to grow if steps are not taken to prevent hypertension, obesity, high cholesterol, poor diet and lack of exercise, which all combine to put a woman at risk for a heart attack or other coronary event. In 2001, the CDC addressed this problem through its WISEWOMAN demonstration projects. WISEWOMAN stands for Well-Integrated Screening and Evaluation for Women Across the Nation. The WISEWOMAN program provided low-income, under insured, and uninsured women aged 40-64 years in 12 different states with chronic disease risk factor screening, lifestyle intervention, and referral services in an effort to prevent cardiovascular disease. In southern Alaska and South Dakota, the program focused on screening for American Indian and Alaska Native women. This type of project is still needed on a permanent basis in the Indian Health Service and Tribal health clinics.

Along with cardiovascular disease, diabetes, and obesity, cancer increasingly affects American Indian and Alaska Native communities. According to a CDC report in 1998,

lung, colon, prostate and breast cancers constituted 53% of all cancer-related deaths in the United States. The report compared cancer-related deaths by sex and race/ethnicity from 1990-1998. While generally concluding that death rates from these cancers declined among men and women in the United States, lung cancer in women and lung, colorectal, and breast cancer in American Indians and Alaska Natives. Among men, death rates from lung and bronchus cancer decreased 1% to 2% per year for each race/ethnicity except American Indians and Alaska Natives. Among American Indians and Alaska Natives, death rates increased 1.7% per year among men and 2.9% per year among women. The report concluded that increases in death rates for American Indians and Alaska Natives most likely reflected increases in smoking rates. American Indians and Alaska Natives have among the highest smoking rates in the United States according to a report issued by the Centers for Disease Control on January 30, 2004. Considering the prevalence of numerous risk factors for chronic diseases and the under funding of our health systems for preventative care, we ask Members of Congress to provide critical preventative health resources to help build up our communities. We cannot build a strong future for the coming generations if we continue to lose our population to these devastating illnesses.

Homeland Security Funding in Indian Country

The President's FY 2005 budget request for the Department of Health and Human Services (DHHS) reflects the priorities of the United States with regard to health and safety concerns relating to Homeland Security. It reflects the Administration's commitment to anticipating future threats to America's public health care, health infrastructure and human services systems. It is important to note that, along with the Department of Defense and Veteran's Affairs health systems, the Indian Health Service occupies a unique position within the Federal government as a direct health care provider.

Therefore, we are requesting funding be added during FY 2005 to help the Indian Health Service and Tribal governments prepare for and respond to potential terrorist attacks, including increases for Data Systems Improvements.

Conclusion

On behalf of the National Indian Health Board, I would like to thank the Committee for its consideration of our testimony and for your interest in the improvement of the health of American Indian and Alaska Native people. If we are to reduce the terrible disparities between the health of American Indians and Alaska Natives compared to other Americans, we need to properly fund the Indian Health Service and we urge the Senate to significantly increase the IHS funding level during this fiscal year. IHS and the Tribes are continuing to work diligently to develop health systems of sufficient quality and with levels of services that our people desperately need. We look forward to working with you on this budget.

Testimony of

Russell Sossamon,

Chairman

NATIONAL AMERICAN INDIAN HOUSING COUNCIL

Before the

SENATE COMMITTEE ON INDIAN AFFAIRS

February 11, 2004

Chairman Campbell, Vice Chairman Inouye, and other distinguished members of the Committee, on behalf of the Members of the National American Indian Housing Council and its Board of Directors, thank you for this opportunity to address you today on the President's proposed budget for fiscal year 2005.

THE PRESIDENT'S BUDGET REQUEST:

As Chairman of the National American Indian Housing Council and Executive Director of the Choctaw Nation Housing Authority of Oklahoma, I was disappointed with the President's budget proposal for Indian housing in fiscal year 2005 because for the fourth year in a row it **does not include any increases for Indian housing in spite of the desperate need**. I understand the situation we are currently experiencing at the federal level with respect to deficit spending and responsibilities for foreign affairs and homeland security. Unfortunately, that doesn't help tribal members suffering in inadequate housing feel any better about receiving insufficient assistance. The poverty rate for Native Americans continues to hover at about 26%, which is more than double the poverty rate for the general American population.

The Congress and Administration have many valid reasons why domestic spending must be kept in check this year, but they must not be mistaken in thinking that maintaining the same level of funding for tribes from year to year is protecting them. **Even in times of budget surpluses Indian housing was under-funded**. Inflation has risen steadily over the past four years, the cost of construction continues to increase, and the Indian population is growing. The threat of funding cuts continues to intensify for all domestic programs, and we are happy to have avoided that situation so far, but we do not believe we should be so grateful as to just accept what we are granted in the face of a brutal reality in Indian Country.

Throughout this hearing and your continued examination of the President's budget, we hope you will keep our concerns in mind.

FUNDING NEEDS FOR INDIAN HOUSING:

NATIVE AMERICAN HOUSING BLOCK GRANT

This Committee has been invaluable in its assistance to the Tribes since the beginning of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA). You have facilitated difficult amendments packages and a reauthorization in the last three Congressional sessions which have improved the Act greatly. My message to you today is if there is not enough funding to put into the program much of that effort will remain unfulfilled.

NAIHC estimates that to meet the needs as presented to us now, we need **at least $1 billion *per year* in funding for the Native American Housing Block Grant**. We believe that $700 million for FY 2005 would be a step in the right direction.

The President has proposed $647 million for fiscal year 2005. This is roughly the same amount that has been appropriated the last four years. Given the rate of inflation and increasing housing costs, housing funding has actually decreased under this Administration. The following table helps illustrate how funding for Indian housing has not kept pace with economic circumstances. Based strictly on inflation, the Indian Housing Block Grant should receive at least $713 million in funding for FY 2005, an amount that would be a true flat-line of funding, not an increase.

	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005 (proposed)
NAHBG Appropriations	$650	$648.6	$649	$651.4	$647
	2000	**2001**	**2002**	**2003**	**2004**
Rate of Inflation *	3.4%	1.6%	2.4%	1.9%	?
Rate of Housing Inflation **	4.3%	2.9%	2.4%	2.2%	?

* Yearly inflation according to the Department of Labor's consumer price index.
** Yearly inflation of general housing costs according to the Department of Labor's consumer price index.

Indian housing needs are many and varied. Basic infrastructure, low-rent housing, homeownership and housing counseling services are all crucial. The NAHASDA block grant allows tribes to determine their own needs and their own course of action. In this respect, NAHASDA is an excellent program and should be supported.

We understand that this Committee in particular has been frustrated by the lack of hard data to support the yearly budget request for Indian housing. We share your frustration. You may remember that last year HUD's Office of Native American Programs (ONAP) underwent a performance assessment through the Office of Management and Budget. ONAP received a poor score, due mainly to its lack of data and therefore its inability to measure performance. We had hoped this assessment would lead to a swift implementation of a data collection system that would show what the tribes already know – that this program is working. HUD collects data yearly in Indian Housing Plans and Annual Performance Reports on such items as number of overcrowded units, number of housing units constructed, and number of housing units rehabilitated. Unfortunately, **HUD still does not have a database that can pull this data together to give a national picture.**

Since we at NAIHC know that this data could be the key to increased appropriations we have decided to embark on our own comprehensive data collection effort. A survey will be sent to all Tribes across the

country in March that will seek to collect the kind of information required to show both what NAHASDA has accomplished, but also identify the current housing need. We hope to report back to this Committee by the end of May with facts and figures on the use of federal funding from various agencies, as well as a report on the services and banking opportunities that are currently available to tribes.

However, even without this data on hand for the beginning of this budget process, I would like to illustrate for you how the proposed block grant amount would be used and why an increase is needed. This illustration was provided by one of ONAP's housing administrators during a meeting earlier this year:

Funding Factors: (figures are approximate)

$647 million (FY 2005 Native American Housing Block Grant Request)
Less $7.5 million in set-asides
Less 20% administrative expenses allowed under NAHASDA
Less 30% for Current Assisted Housing Stock (1937 Act homes under management)
$319.75 million available for new housing construction

With an average cost of $125,000 per unit, tribes should be able to build approximately 2,550 new units of housing nationwide in 2005. According to the Census, more than 40,000 Indian houses are overcrowded (more than 1.1 persons per room), so at 2,550 units a year **it would take nearly 16 years to address only one of the seven factors used under NAHASDA to determine need – overcrowding – if funding and costs remained constant.** This may be an oversimplification of the situation, but it shows that progress, while steady, is slow to meet the need.

COMMUNITY DEVELOPMENT BLOCK GRANT

The Community Development Block Grant (CDBG) program is a crucial tool for the development of infrastructure and economic opportunities. The Indian set-aside under the program has been 1.5% of the total appropriation for several years. NAIHC believes that both to develop effective housing strategies and for the economic development needed to support homeownership and job creation, **this amount should be doubled to approximately $150 million.** Clearly, we must invest in infrastructure and job creation now if tribes are going to be successful in the long term. This money can do exactly that and eventually lead to stronger on-reservation economies.

We understand the CDBG program also recently went through OMB's performance assessment, and like the NAHBG program, was unable to adequately demonstrate measurable success. We support any efforts of OMB and HUD to document the use of CDBG and/or improve its performance. We see every day how tribes have used this program to build their communities and would welcome the chance to have that success accounted for.

RURAL HOUSING AND ECONOMIC DEVELOPMENT PROGRAM

We are disappointed to see that the Rural Housing and Economic Development program was again left out of the President's budget, even though it provides needed capacity assistance to rural, local and state organizations, including tribes. The RHED program provides capacity building assistance, funds for innovative activities, and seed support for new programs. Grants have supported micro-enterprise development, affordable housing construction, small business incubators, and staff development and computer software. In the first year alone, 749 organizations applied for funding, and only 91 grants could be awarded. The good news is that tribes generally receive about half of the grants awarded. There is a real need for this type of flexible funding. For the last three years, Congress restored funding for this important program, which was left out of the FY 2003, 2004 and 2005 budgets. **We ask you to support continued funding at the $25 million level.**

BIA HOUSING IMPROVEMENT PROGRAM

The Housing Improvement Program (HIP) at the Bureau of Indian Affairs was the original housing program for tribes at BIA before the beginning of HUD assistance. Even after implementation of the NAHASDA block grant, however, the BIA HIP program continues to play an important role in tribal housing. Much of the housing stock in Indian Country is either aging or was cheaply built in the first place. Rehabilitation is therefore one of the most desperately needed services. Funding for HIP has hovered around $20 million a year for many years. **Tribes would be well-served to see this fund increased to at least $35 million a year to supplement other housing efforts.**

WATER AND SEWER INFRASTRUCTURE

Since 1982 the Interior appropriations bill has contained language precluding tribes from using Indian Health Service Sanitation Facilities Construction funds to service HUD-funded homes. The language is also in the Indian Healthcare Improvement Reauthorization Act. This restriction no longer makes sense following the institution of NAHASDA, which brought in a new era of combined and leveraged funding. If a home contains even $1 in new HUD funds, it becomes a low priority for service by the Indian Health Service and only the pro-rated share of the home that is not HUD funded may be paid for by IHS, if the house is serviced at all. What this prohibition is doing is causing complicated accounting and engineering situations for tribes that are totally unnecessary.

The Indian Health Service feels HUD should fund its own infrastructure out of NAHASDA. If NAHASDA were funded at a level that could both build houses *and* infrastructure that might be a valid argument, but tribes most now choose whether to build houses *or* infrastructure with their NAHASDA funds because both are so expensive. Still, an increase in NAHBG funding would solve only part of the problem. Tribes would still have to allocate their resources and account for the percentage of non-HUD homes in each project to accommodate this I.H.S. prohibition. It is true that this will cause an increase in requests for Indian Health Service funding, but the assistance is still going to the same recipient – the Tribe – so why put up road blocks to that assistance? It only makes sense that the tribe itself choose how best to combine funds that will work for each situation.

We support the removal of this prohibitive language, but that is only the technical aspect. The real need is to increase funding to begin to address the severe shortage of water and sewer infrastructure for Tribes. Census statistics from 1995 tell us that 20% of tribal households are without complete plumbing.

We are pleased that the President, with the assistance of Health and Human Services Secretary Tommy Thompson, recognized the desperate need for improved water and sewer infrastructure in Indian Country by requesting a $10 million increase for Sanitation Facilities Construction in FY 2005. A similar requested increase of $20 million was disregarded by Congress in FY 2004.

The Administration tells us about the sad state of infrastructure in Iraq because it has been ignored for so long, and uses that to justify increased foreign aid. Tribes can identify with the conditions the Iraqi people live with and yet their need here at home continues to be ignored. **I urge this Committee to explore this issue to investigate all sources of infrastructure funding for tribes and help determine what the best policy is.**

TECHNICAL ASSISTANCE:

The President has proposed reducing technical assistance funding for the implementation of NAHASDA in FY 2005 by eliminating the $2.2 million set-aside for NAIHC, which supplements HUD's technical assistance funding of $5 million. In spite of the same budget request last year, Congress chose to fund NAIHC's efforts in final FY 2004 appropriations in the amount of $2.2 million. We would like to see the same happen in FY 2005. NAIHC also receives a set-aside from the Community Development Block Grant.

From a total of $4.7 million in FY 2004 for both grants, the Administration has proposed $2.485 million for NAIHC in FY 2005.

HUD's Native American Housing Block Grant is not an easy program to administer if you have no experience with it. For tribes with extremely limited funds and/or limited experience it can be daunting trying to access and effectively use the NAHBG and other federal housing funds. For many years Congress has placed its faith in NAIHC to provide technical assistance and training to all tribes, not just NAIHC members. Originally only a CDBG set-aside, the additional set-aside from the NAHBG was added in FY 2000 since it appeared HUD's technical assistance money was being used mostly to augment insufficient allocation for salaries, expenses, and payments to consultants, while money for NAIHC is used exclusively for capacity building on the tribal level. In particular, small tribes across the country are in desperate need of on-site support and training. HUD is simply unable to address this need when their job is to administer and provide oversight for the program. Furthermore, often HUD will release guidance and notices for which they are unable to provide implementation assistance. This is where NAIHC steps in.

Listed below are each of the major items funded by the $2.2 million NAHBG set-aside in 2003:

Scholarships. In 2003, NAIHC received **562** applications for scholarships, **508** of those were approved, and **430** were actually utilized by students to attend NAHASDA related training opportunities offered by NAIHC and HUD/ONAP. Scholarships provide an opportunity for Indian housing professionals to attend training on subjects relevant to Indian housing that they might not otherwise be able to afford. While this program is geared towards the staff of smaller tribes/TDHEs (those receiving under $100,000 in NAHBG funds), all tribes/TDHEs are eligible for some level of scholarship assistance.

Mentoring. In 2003, NAIHC facilitated **5** mentoring trips. The mentoring program provides Indian housing professionals from one tribe to learn about well run programs at other tribes so that those success stories and programs can be replicated. Most of the mentoring visits in 2003 were centered on successful Homebuyer Education and Training programs.

Training. In 2003, NAIHC offered **29** FREE classroom sessions in **10** different subject matter areas that were relevant to running a successful Indian housing program. Classes ranged in length from **2** to **4** days depending on the complexity of the subject matter. In 2003, **525** individuals registered to attend these training sessions. Course topics covered were, ***Accounting, Board of Commissioners, Collections and Compliance, Mediation, Payroll Management, Self-Monitoring, Small Tribes Implementation, Strategic Planning, and Tribal Leaders Training.***

Training at Convention/Legal Symposium. In addition to the formal classroom sessions offered by NAIHC, NAHASDA related training tracks were also offered at our 2003 Annual Convention and 2003 Legal Symposium. Attendance figures for those events were as follows:

Training at the Convention:	**20** Subjects	**653** Students
Training at the Legal Symposium:	**3** Subjects	**127** Students

Policy Development Workshops. In 2003, NAIHC offered **4** Policy Development workshops. This is one of our most popular sessions because experienced NAIHC staff are on hand to help Indian housing professionals develop NAHASDA compliant policies for use at their local housing program. **136** individuals registered for these sessions.

Board of Commissioners Technical Assistance. Working with tribes/TDHEs identified by HUD/ONAP, NAIHC provided FREE on-site technical assistance and training to the Tribal Councils and/or Housing Board of Commissioners at **30** tribes in 2003. The focus of those on site visits was to ensure that local officials who are responsible for the oversight of their housing program were familiar with the federal housing statute and regulation – NAHASDA.

Technical Assistance Documents. In 2003, NAIHC developed **5** technical assistance documents that are intended to help tribes/TDHEs more effectively operate their local housing programs. Topics were: A Set of Model Construction Contract Documents, an Executive Directors Orientation Manual, and three sample policies (Collections and Compliance, Procurement, and Real Property Acquisition). All of these are approved by HUD/ONAP (or will soon be approved) and will be reproduced and distributed FREE to tribes/TDHEs.

As you can see, NAIHC's NAHBG set-aside is being put to good use and being applied right where the tribes need it to implement NAHASDA.

Using the CDBG technical assistance funding, NAIHC provided on-site technical assistance to over **162** tribes in 2003 alone, supplemented by more than **365** emails and phone calls. Approximately **530** tribal housing staff attended training courses as part of NAIHC's Leadership Institute, separate from those courses mentioned above. The Leadership Institute provides courses in four different tracks: ***Housing Management Services; Administration and Planning; Development & Modernization; and Model Activities/Electives.***

Despite all this good work, NAIHC's funding was cut in half in the President's budget. Tribal capacity will improve only when there is training and other assistance provided. To make this block grant program work efficiently, recipients must have access to assistance. NAIHC is able to show precisely how it has used its federal funding for the betterment of tribal housing programs. Has HUD been able to show the same amount of support for the tribes? We have seen no similar breakdown of services and believe the tribes will suffer if only HUD is there to provide assistance. **We are therefore requesting full funding of $4.8 million in FY 2005 for NAIHC technical assistance, which would ideally all come from CDBG so as not to compete with tribal housing allocations in the NAHBG.**

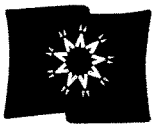
CONCLUSION:

Mr. Chairman, during this hearing last year you had a question about fetal alcohol syndrome and what can be done to prevent it in tribal communities. One way to prevent alcoholism is to provide hope for the future. What hope can there be when you are living in a home with 25 other people, have no running water, or no electricity? When people live in the kind of conditions we see commonly in tribal areas, there is no hope. Strictly on a basis of human needs, shelter is number three after food and clothing. Let's go to the core of the problems endemic to tribal communities, including alcoholism, and address the basic safety and comfort of shelter. Funding appropriated for healthcare and education, while important, goes much further when the base need of shelter is met. Absent adequate housing, you are discounting your investment in these other areas.

In closing, we understand there are always going to be prevailing issues that will tend to overshadow tribal needs in the budget, but we urge you to not forget the desperate housing conditions Native Americans are enduring day after day. Consistent growth in the housing industry has been one of the brightest spots in our lagging economy. Don't allow Tribes to be left behind just when they are making headway in building sustainable tribal communities.

I would again like to thank all the members of this subcommittee, in particular Chairman Campbell and Vice Chairman Inouye, for their continuing support for the Tribes and for Indian housing programs. NAIHC looks forward to working with each of you in the rest of this session of Congress and I am happy to answer any questions you may have.

The National American Indian Housing Council is a 501(c)(3) organization representing tribes and tribal housing organizations nationwide. It operates a national technical assistance and training program as well as the Native American Housing Resource Center in Washington, DC through an appropriation from the Congress administered by HUD. NAIHC's offices are at 900 Second Street, NE, Suite 305, Washington, DC 20002; phone: (202) 789-1754, fax: (202) 789-1758; http://naihc.indian.com.



Oglala Sioux Tribe

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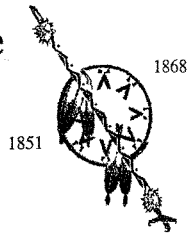

John Yellow Bird Steele

Testimony of John Yellowbird Steele, President of the Oglala Sioux Tribe, on the Administration's FY2005 Budget Request for Indian Programs United States Senate Committee on Indian Affairs Hearing Date: February 11, 2004

Introduction

The Oglala Sioux Tribe's position on the President's FY2005 Budget Request is that it is inadequate to meet the needs of Indian Country. While the Tribe welcomes the increases requested for certain programs in the budget request, the overall proposal falls short of what is realistically needed to raise the quality of life of Indian people. American Indians and Alaska Native consistently suffer from the highest rates of poverty, unemployment, chronic diseases, infant mortality and the lowest life expectancy of all Americans.

In particular, our reservation, Pine Ridge has an unemployment rate of more than 80%. There are virtually no opportunities for jobs on the Pine Ridge Reservation other than working for the Tribe or the Federal Government. Our infrastructure is so inadequate that many homes rely on hauled water for drinking and other household purposes; homes are woefully overcrowded, housing extended families; and many go without telephone and Internet capabilities. Our roads, while improving, still need additional and comprehensive maintenance and care. Our location is remote with banks and other services for every day life and business about an hour car ride away. Conditions such as these do not attract economic development and business investment. Businesses generally prefer not to set up shop when they have to provide everything themselves to do so - - and in the end not be guaranteed even the basics of running water or telephone lines. Shannon County, which is wholly within our reservation boundaries, has the unfortunate distinction of consistently being one of the poorest counties in the entire United States.

This is the state of affairs in 2004; similar to the state of affairs twenty years ago and twenty years before that - - always lagging behind the rest of America. Substandard conditions persist despite the Federal government's trust responsibility owed to us and the treaties between our nation and the United States in which acres upon acres of our land were taken based on promises that the government would provide for and protect us. The U.S. Commission on Civil Rights issued a report entitled, *A Quiet Crisis: Federal*

Funding and Unmet Needs in Indian Country. This report documents that funding for Native American programs is chronically low compared to other minority groups and the general population.

The Oglala Sioux Tribe believes it is time to become a loud crisis. It seems this is the only way the United States may finally live up to its trust responsibility and treaty obligations. In doing so, it could stop the injustices endured by our people and raise our standard of living to that enjoyed by other Americans.

This testimony focuses on certain aspects of the President's FY2005 Budget Request and discusses the specific needs of the Oglala Sioux Tribe within the categories outlined below.

BIA/Office of Special Trustee

The President requested $2.3 billion dollars for the Bureau of Indian Affairs. This is a decrease of $52 million from the 2004 enacted level, including the across-the board reductions imposed by the Interior and Omnibus Appropriations bills. The Office of Special Trustee, on the other hand, would receive a substantial increase of approximately $113 million under the President's budget request. We are pleased with the increase of $53 million to the Indian Land Consolidation account, a program that is desperately needed in our area to resolve trust management and probate problems. However, while increases to the Office of Special Trustee are warranted toward efforts for proper trust fund and resources management, we object to these increases being offset by decreases in funding for tribal programs.

Indian people should not have to pay for the Federal government's trust processes to be fixed. The problems in trust management arose from the fault of the Federal government. Indian people and tribes have suffered enough from the effects of the government's mismanagement of our resources. It is wholly unjust to now have us carry the price of the government's trust management mistakes on the backs of tribal programs, which must be fully funded to meet the needs of our members. The Administration should have requested new monies from Congress to correct its internal problems rather than relying on insufficient BIA program dollars. We call upon Congress to provide new monies for the Special Trustee's needs while restoring funding to Construction, TPA and Recurring Programs.

Further, any increases provided to the Office of Special Trustee for trust management should be spent in accordance with the priority trust management needs of each particular region. A one-size-fits-all approach to trust management and reform will not suffice.

Law Enforcement / Public Safety

The Oglala Sioux Tribe's Court System is in crisis. Yet, the President's Budget Request proposes to cut essential Department of Justice funding for Tribal Courts by $7.6 million.

Funding for our court system could not even make it through the year last year. Over all, we have an unmet need just to attain our current court operation of approximately $114, 000. This does not include the need for full year funding of $107,000 for our Attorney General's Office, which operated last year with only six months of funding. To assist with our backlog of cases, one prosecutor stayed on last Fall through the end of the year getting paid only $200 every other week. We also desperately need two Public Defenders and an attorney for ONTRAC to deal specifically with Indian Child Welfare cases (total costs are approximately $188,000). At present, we do not have any public defenders and paralegals or other staff have been appearing in court for ONTRAC cases. The aforementioned needs, however, are needed simply to continue operations with slight improvement over what we have now. The Tribe actually needs additional funding in the amount of $753,000 to provide for adequate staff and equipment for our court operations. We need a properly run court system. It is the only way economic development will come to and prevail on Pine Ridge. We ask that Congress restore funding to the Department of Justice for tribal court needs.

Our Department of Public Safety also needs adequate funding. The President's Budget Request would cut almost $5 million in essential tribal law enforcement funds allocated by the COPS program. Total funding for the COPS program is requested at $97 million, down from $756 million in FY2004. Our tribe currently has 59 officers through the COPS program. Our hope is that if the COPS programs is to wane, we can fund these much needed officers directly through our self-determination contract with the BIA.

While we currently operate with 59 COPS officers and 29 BIA officers, police coverage of our 2 million acre reservation is wholly inadequate. We operate at a rate of approximately 1 officer to 3,000 persons while Bureau of Justice statistics commonly cite police-to-citizens ratios in other areas as 4-7 officers per 1,000. It is clear that we need more officers for the safety of our people. We also need adequate equipment to ensure our officers can do their jobs efficiently. Our tribe alone needs at least $225,000 for communications technology for our officers and adequate funding for administration and property/supply buildings. There must be a commitment to fund law enforcement in Indian Country. Funding levels for tribal law enforcement programs have not increased over FY2002 levels. This cannot stand. We join NCAI in supporting at least a 50% increase in tribal law enforcement funding; it is the only way we can ensure public safety on our reservations.

Indian Health Service

While we appreciate the increase in the President's Budget Request for the Indian Health Service (IHS), it is not enough to meet the needs in Indian Country. Further, funding for the IHS Facilities account, it must be pointed out, would decrease by a significant amount despite the fact that maintenance, improvement and supplies are desperately needed at health facilities in Indian Country. The amount of unmet need in Indian Country on health issues is staggering. Tribal Leaders' needs based budget for IHS funding. is at $19.4 billion.

The Administration and Congress must recognize and address this fact. The trust responsibility and treaties mandate that they do so. With this, support $5.54 billion for FY2005 funding for IHS, as proposed by Senator Daschle in an effort toward meeting our healthcare needs. Without it, our people can only expect to continue to lag behind other Americans when it comes to quality of life and health issues.

Funding for Detoxification Component of Detention Center

The Oglala Sioux Tribe is working with the Department of Justice on the Comprehensive Indian Resources for Community and Law Enforcement (CIRCLE) project. One component of this project is the planning, design construction, and operation of a new 140-bed jail/ detoxification/ treatment facility. This facility will address the serious problems that alcohol and drug abuse create on the Pine Ridge Indian Reservation and our 98% alcohol related arrest rate.

While construction efforts progress through the DOJ and Bureau of Indian Affairs, no operational funds for the detoxification treatment and rehabilitation component of the facility have been identified or allocated.

The Tribe has an immediate need to hire a detoxification treatment director for the facility. This person is key in that she will develop all the procedures for handling the detox component of the project. Our request of $124,265.00 covers costs for the director and an assistant. Our overall need for the operations of the detox component is approximately $1.6 million annually. This funding would cover counselors, emergency medical technicians (EMTs), the detoxification treatment director, equipment, training, and other needs.

It is also critical that our Intensive Care Unit (ICU) at the Pine Ridge Hospital become operable. The Tribe has worked with the local agency to develop a realistic budget for a functioning ICU. It calls for approximately $1.4 million for ten (10) family practice/ internal medicine physicians and ten (10) registered nurses, the staff that is required to meet the Reservation's need. Staff housing of 22 units at approximately $100,000 per house is also needed. At present ICU patients are transported at high costs to neighboring cities for treatment.

Education

The President's budget request eliminates funding for new construction projects. This adversely affects the Oglala Sioux Tribe and completely ignores prior commitments and current needs. The Oglala Sioux Tribe is requesting $13 million for a therapeutic residential facility to accommodate 200 students to replace the existing residential facilities at Pine Ridge school. The Loneman school is currently the most dilapidated and unsafe school in the BIA system. The BIA and external consultants agree that the school is unsafe and overcrowded. The Oglala Sioux Tribe is requesting $1 million for the planning and design of a new facility to replace the Loneman school.

The Oglala Sioux Tribe requests that appropriation language be included that prohibits the BIA/OIEP from enacting any and all policy changes without consultation with all tribes, as provided by law, that accurately describes proposed changes. Individual tribes which will be adversely affected should be individually consulted for consent and approval. The Oglala Sioux Tribe also maintains that specific treaty obligations supercede administrative initiatives which threaten treaty obligations to tribes. We request language that exempts treaty tribes from the No Child Left Behind Act, and requests the creation of a new act which specifically addresses treaty tribes.

We have attached more detailed testimony regarding the FY 2005 education needs of the Oglala Sioux Tribe.

Housing

For four years running there have been no increases for the Native American Housing Block Grant, an effective decrease when inflation is factored. As a result, housing construction in Indian country is only barely keeping up with demand. We would like to see the Native American Housing Block Grant increased in order to meet its established goal of meeting the housing needs in Indian country. We also appreciate the continuance of the 1.5% set-aside for tribes in the Community Development Block Grant, but we also feel it could be increased to allow $150 million to develop the economic climate which would foster homeownership and job creation in Indian country. We note that again Congress must take the initiative to restore the funding of the Rural Housing and Economic Development Program. We would also like to stress the continuing importance of the BIA's Housing Improvement Program.

The Oglala Sioux Tribe has a dramatically high poverty rate and housing is inadequate and often substandard. We need an equitable distribution of HUD funds. Maintaining the status quo in how the monies are distributed does not serve the needs of the Pine Ridge Reservation.

Infrastructure

The road infrastructure on the Pine Ridge reservation was specifically designed to move Indian commerce off of the reservation and into surrounding communities. This is one of the primary infrastructural problems the reservation faces --the inability to keep Indian dollars on the reservation. Currently, there are problems with communication and coordination which make transportation problems on the reservation even more difficult to address. The Oglala Sioux Tribe requests the passage of legislation authorizing a direct relationship between the Tribe and the U.S. Department of Transportation.

Vast portions of the Pine Ridge Reservation are still without potable water, pending completion of the Mni Wiconi Project, now projected to be 2008. In the meantime, the Oglala Sioux Tribe requests approximately $180,000 for the purchase, operation, and maintenance of three trucks to deliver drinking water to our residents without water. This

effort addresses crucial public health needs and cannot afford to be delayed until completion of the Mni Wiconi Project.

The Mni Wiconi Project is a monumental rural water effort which will serve the Pine Ridge Reservation as well as the Lower Brule and Rosebud's Reservations. While the Mni Wiconi Project's capability is $39 million for construction, the Tribe needs at least $32.8 million for construction in FY 2005 – which is the amount that will ensure completion of this most important project by 2008, its target completion date. The request amount will make sure our people receive clean, safe water at the soonest possible time.

Conclusion

Thank you for your consideration of our views on the FY 2005 Budget Request. We look forward to continuing our work with you in an effort toward meeting the needs of Indian people.

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FISCAL YEAR 2005 BUDGET

WEDNESDAY, FEBRUARY 25, 2004

U.S. SENATE,
COMMITTEE ON INDIAN AFFAIRS,
Washington, DC.

The committee met, pursuant to notice, at 9:30 a.m. in room 485, Russell Senate Building, Hon. Ben Nighthorse Campbell (chairman of the committee) presiding.

Present: Senators Campbell, Inouye, Johnson, Murkowski, and Thomas.

STATEMENT OF HON. BEN NIGHTHORSE CAMPBELL, U.S. SENATOR FROM COLORADO, CHAIRMAN, COMMITTEE ON INDIAN AFFAIRS

The CHAIRMAN. The committee will be in session. We are going to go ahead and start. Senator Inouye called and is stuck in traffic. He will be along shortly. We have been notified that we have a vote at 10:30 and that gives us a very limited time, so I am going to go ahead and start and get through as much as we can.

Welcome to the second hearing of the fiscal year budget request for Indian programs submitted on February 2 by President Bush as part of the larger budget request. This morning, the committee will hear from six Federal agencies responsible for various Indian programs and services. The request includes a total of $10.8 billion for the Department of the Interior, with a modest increase proposed for Indian law enforcement, fire management, and others. Major increases are proposed for the Office of Special Trustee and Related Trust Activities. Modest increases are proposed in the Indian health and other accounts. Rather than go through that list of increases and decreases, I will submit a detailed statement for the record.

I would like to make one comment for those in attendance. Last week, I think we witnessed a major breakthrough in the *Cobell* v. *Norton* case, as the plaintiffs and the defendants agreed to move to the stage of meeting with the selected mediators to resolve the case that has been ongoing for a number of years. This event is a very big issue, I think, and I believe that if the Indian account holders are going to benefit, it is going to come about from a negotiated settlement, and not from another 8 years of litigation.

With that, we will go ahead and start with Mr. Swimmer. Welcome to the committee. Why don't you proceed? For all of the witnesses, your complete written testimony will be submitted for the record and will be read very carefully, and if you would like to ab-

breviate it in the interest of time, because we will have a vote, go ahead and do it.

STATEMENT OF ROSS SWIMMER, SPECIAL TRUSTEE FOR AMERICAN INDIANS, DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY AURENE MARTIN, PRINCIPAL DEPUTY ASSISTANT SECRETARY FOR INDIAN AFFAIRS

Mr. SWIMMER. I will certainly do that, Mr. Chairman. I appreciate the opportunity to be here this morning and to provide some information regarding the proposed budget for 2005. I second the optimism of the chairman regarding the mediation process. On behalf of the Office of the Special Trustee, I want to thank you and the staff, particularly, for their hard work in assisting us to bring the parties to the table. We are optimistic that this mediation process will be successful.

The Trust budget encompasses numerous items that are detailed in the statement and in the budget that the committee has seen. I will just go through some of the highlights of that to give the committee an idea of what we expect to do in 2005 as a result of the budget.

The Unified Trust budget has grown from approximately $243 million in fiscal year 2000 to over $600 million proposed for fiscal year 2005. That is a huge increase in the Trust budget, if you will, for the Department of the Interior and certainly for the Bureau of Indian Affairs [BIA] and Office of the Special Trustee.

However, I would like to focus on the two items in particular that make up a large part of that increase. One is the $109 million proposal for fiscal year 2005 that would fund approximately one-third of the cost of doing the historical accounting that the Department had proposed in its plan submitted to the court last year. We feel that this is an appropriate request if we do not have any further direction from Congress or from the mediation process or the court. We feel that it is important that we do proceed with that accounting as we understand it and as has been proposed by the Department.

The other major item is an increase to $75 million for the Indian land consolidation project. This is a project that is extremely important to Indian country. It is a major cost item on an annual basis for the Department, both in the BIA and the Special Trustee's office, Bureau of Land Management and even Minerals Management Service. We are trying to track roughly 260,000 accounts for Indian individuals and special deposit accounts and various and sundry others. Almost 20 percent of those accounts, or about 15 percent of those accounts, have less than $1 in them. It costs us certainly in excess of $100 a year per account just to keep those accounts on the books. We have no authority to do anything with those accounts.

Those accounts come from, in many cases, income of highly fractionated land. It is not uncommon today to have 50 or more owners of a tract of land. I believe our statistics indicate that the most highly fractionated is a tract of land in the Midwest where we have been working on the ILCA program. I believe it is 2,500 owners of about 80 acres of land. Even if that 80 acres generated substantial income, which I do not believe it does in this case, try-

ing to divide that among 2,500 owners, actually capture the money identify ownership, invest it, collect interest on it, and then pay it out, is a huge expense.

In fact, we do have a policy that we do not cut a check until the amount owed to the participant is at least $15, and we have literally tens of thousands of accounts that it takes years for it to ever get to $15. In fact, we have many accounts, Mr. Chairman, that require that we round up to a penny. Fractionation is a problem. We believe that this is an amount that can be well spent and will go a long way to relieve the problem, or at least begin the process of relieving the problem of fractionation and the costs associated with these small accounts.

It is an interesting statistic. The revenue generated from the money that we are asking for in the Trust budget is approximately $194 million for the individual Indian money account holders, and $378 million from tribes. In addition to that, we manage on a continuing basis approximately $3 billion of trust funds that are already on deposit. Those two numbers total about $572 million. If you look at the Trust budget, it is almost exactly the same amount of money. In fact, given the accounting and the land consolidation budget for fiscal year 2005, it is actually about $100 million more. I am sorry, about $30 million more than what is actually collected.

Other key items in the Special Trustee's budget are the reorganization and the re-engineering. The reorganization that was begun last year is virtually complete. We are using the fiscal year 2004 appropriations to hire the trust officers and the Trust administrator's that were part of the Special Trustee's reorganization project. We will have a few staff that will be hired, support staff, in 2005. There are approximately $2 million in the Special Trustee's budget for 2005 directed toward the completion of the hiring of the staff for reorganization.

I believe that there is about $5 million in the BIA budget that will complete that process, their portion of the reorganization, but there is really not much money that is committed for reorganization. Most of that was handled in-house within the existing budget in 2003 and 2004, and is now virtually complete, as I mentioned.

The reorganization is extremely important, however, in terms of assisting the local BIA agencies, to do the job that they are charged with in terms of administering the trust, the trust assets, and providing services to the beneficiaries. Almost all of the money that is scheduled this year and for 2005 for reorganization will be spent at the local level. It will be spent providing increased beneficiary services. It is going to be spent to support increased administration of the trust assets, and to ensure that at least on a going forward basis, we have a complete accounting on a regular basis of all the income that is collected and we are able to ensure the title information is correct for those individuals that own property.

The operating budget for the Special Trustee's office is actually right at $105 million. That is a slight decrease from last year. The other items that bring the budget of the Special Trustee to $322 million are those things I mentioned, the addition of the $75 million for ILCA, the $109 million for the accounting, and then various transfers out of our budget to the BIA, things like computer support, probate, the Office of the Secretary for the Trust architect in

the CIO's office, Chief Information Office, and for expenses of the Office of Hearings and Appeals, also related to probate.

While it appears that the Special Trustee's office budget is fairly dramatic as far as the increase for 2005, I want to reiterate the actual operating budget that we are working with is flat. The increases are primarily those two items in the historical accounting and in the ILCA program.

So with that, if the committee has questions, I would be happy to answer those questions and provide any other information that I might.

[Prepared statement of Mr. Swimmer appears in appendix.]

The CHAIRMAN. There will be a number of questions. Most of mine I will submit in writing, but I will ask you a couple in a minute. Let's go ahead with Mr. Hartz, since we have such a short period of time.

STATEMENT OF GARY HARTZ, ACTING DIRECTOR, OFFICE OF PUBLIC HEALTH, INDIAN HEALTH SERVICE, DEPARTMENT OF HEALTH AND HUMAN SERVICES, ACCOMPANIED BY ROBERT G. MCSWAIN, DIRECTOR, OFFICE OF MANAGEMENT SUPPORT; AND DOUGLAS BLACK, DIRECTOR, OFFICE OF TRIBAL PROGRAMS

Mr. HARTZ. Thank you, Chairman Campbell and Senators Johnson and Thomas. We are pleased to come before you this morning to present the IHS budget for fiscal year 2005.

As I was preparing for just making a few opening remarks for the hearing, I realized that this is the 50th anniversary submission of the IHS budget. We are just approaching our 50th year in existence. We were transferred from our colleague's agency a number of years ago now.

In preparing for the hearing, I also noted some remarks that were made by Senator Inouye about 2 weeks ago about the story to be told about Indian health. He remarked that it was a good story. As I reflect back for just a couple of moments regarding that good story, I am pleased to say that I was part of that story for two-thirds of those 50 years, in providing health care to American Indians and Alaska Natives. We have seen really good budgets and we have seen some that have been tighter than others because of constraints that faced the country at various times throughout those 50 years. Plus, I have very personally observed them during my tenure.

What we have focused on, is a program that has continued to provide good health to Indian people, is prevention and public health. It is critical. In today's environment of the changing demographics of disease among the American Indian population, we can see more and more that behavior and lifestyle is what is affecting health status. We have looked to, as Dr. Grim pointed out last year, how we can better partner with other organizations and collaborate enhance the resources that we have, how we can leverage funds into expanded programs.

Some examples of the kinds of things we have done just in the tenure that I am talking about in my professional career, we have by, 60, approximately, percent reduced the maternal deaths. Infant mortality, unintentional injuries, and gastroenteric death rates also

dropped dramatically. I alone have seen the percent of homes with adequate water and sewer go from 40 percent to almost 93 percent.

These are remarkable accomplishments in a relatively short period of time. We still have a long way to go, and we believe by the budget that we presented in dealing with public health items like health promotion, disease prevention, and if we believe that personal lifestyles and personal healthy behavior can address the obesity issues, we will address some of the precursors to diabetes, which is a major precursor to the problems of by cardiovascular disease.

We see these initiatives, plus those of the Secretary and others, and the resources we are getting from others, like National Institutes of Health, we are accessing their resources to develop our Native American Research Centers for Health, working in concert with other entities of HHS under the Secretary's guidance to further supplement the resources we have.

The Tribal Epi Centers are a critical aspect of making sure that when we do have funds, that we can target our interventions most appropriately. This afternoon I will be leaving for the dedication of the Northern Plains Tribal Epi Center for the Aberdeen area in Rapid City, SD. I want to thank this Congress and others for the work that they have done to help support us and support the Aberdeen area tribal chairman's health board in pulling that together.

I am really looking forward to going there and being part of their dedication and to share with them this event. It is quite a task. We have requested additional funds to establish up to four more Tribal Epi Centers and include the areas that we have not been able to address.

A final comment I will make regarding accomplishments, and that lies in the capabilities and outstanding accomplishments of the tribes in taking over now 52 percent of the resources that we get for health services. They are doing just a wonderful job.

We are pleased with the resources that are coming to us to address diabetes. In 2004, we are getting a $50-million increase. With that, we are going to even go further in targeted interventions through strategies to take advantage and enhance some of the interventions that have proven to be most effective. As an example, in preparation for the potential that the special legislation was going to run out and not get reauthorized, we were preparing a requested report to Congress. Now it has become an interim report that is coming to Congress because of the reauthorization, but there were some important items that were highlighted as we prepared to present that report.

Just two that I will focus on. First, the community-based physical activity programs for children youth and families existed before 1998 in 10 percent of the locations where the diabetes grants were awarded. Taking a look 4 years later, 71 percent of the locations had programs within the communities. So they were making inroads into getting these activity programs developed.

Also, school-based health programs focused on physical activity. Only 22 percent of the grantees had that in existence in their schools prior to 1998. After 2002, it is up to 53 percent. We need young people to get their exercise. We need them to get it early and we need to have that as a part of lifestyle.

There are many things that can be done related to public health and prevention. As my mother used to say, an ounce of prevention is worth a pound of cure. That is so, so true when we start dealing with lifestyle and behavioral issues. If we can make those inroads early, the costs are much, much less. We believe with this budget, we will be able to make some more of those inroads to deal with public health and prevention.

Finally, I do not want to leave here with you thinking that all these good things happening is just Hartz's perspective on Indian health. We have been assessed through the program assessment rating tool that is done through OMB. We consistently rank about the highest in our Department, and actually higher than comparable entities in other departments that are delivering health care. We have been evaluated on our direct patient care program, direct health services, on sanitation facilities, on our RPMS system as a part of our IT, and our urban programs. So we have had the outside reviews as well. We are pleased in what we have been able to accomplish. We know there is a lot more yet to be done.

With that, I will submit the rest of my statement for the record, sir.

[Prepared statement of Mr. Hartz appears in appendix]

The CHAIRMAN. Before we go to questions, I will ask our vice chairman, Senator Inouye, if he has any comments. But maybe let me ask you one thing first, because I just thought about this. Not too long ago the Senate confirmed Secretary Anderson. Dr. Grim has been confirmed for a while. Why, when it is such an important year this year dealing with Indian programs, are they not here, either one of them?

Mr. HARTZ. Dr. Grim had a longstanding personal commitment that he was unable to break. Sir, I apologize if we are not going to be able to respond to your questions on these matters. We will try to do that. If in fact, we are unable to do that, we will certainly provide any responses for the record. He was really disappointed in not being able to make it, but at the same time he trusted that we would bring forth the issues and respond as best we can.

The CHAIRMAN. Mr. Swimmer, where is Assistant Secretary Anderson?

Mr. SWIMMER. I really do not have an answer for you. I think that certainly the Principal Deputy Assistant Secretary Martin is here, and I would suggest that it has a lot to do with the learning curve and that he just has not been able to have the time to become real familiar with the budget and preferred that she present it. She may be able to answer that question.

The CHAIRMAN. Okay, well, that is all right. You might just pass a message on from me personally as the chairman. I have a patience curve, too. It seems to me if we can take the time to deal with something as important as Indian country on both health and all the other agency issues for the BIA, they ought to be here. Would you pass that on to them? They are going to find a less friendly chairman if they do not get over here when we are doing hearings which it is very important that they are here.

Mr. HARTZ. I will do so, sir.

Mr. SWIMMER. Yes, sir.

Senator INOUYE. Mr. Chairman, my apologies for being late, but we were detained by an accident that included helicopters and sirens. We were not in the accident.

The CHAIRMAN. I am glad of that.

The CHAIRMAN. Let's see, I believe Senator Johnson, you were here next. Did you have a statement before we go to questions?

STATEMENT OF HON. TIM JOHNSON, U.S. SENATOR FROM SOUTH DAKOTA

Senator JOHNSON. Just very briefly, Mr. Chairman.

Mr. Chairman and Vice Chairman Inouye, thank you for holding the hearing. At last week's budget hearing, I more fully expressed my concerns about the President's budget. I will not repeat myself. My concerns are frankly multiple in nature. However, I would like to make just a brief comment on a couple of issues of concern brought to me by my South Dakota tribes.

First of all, I do want to address just very briefly the reorganization that is taking place. It is led by Mr. Swimmer. The tribes from my home State of South Dakota are deeply impacted and they are concerned about this. By law, the Federal Government must protect the interests of tribes and its members as their trustee. The facts have demonstrated over the years that the Federal Government has failed in its responsibilities to tribes. Broadly speaking, I am concerned that the President wants to fund the Office of Special Trustee at the expense of other Indian programs.

While I understand that we need to fund the Trust Program, the Department of the Interior's failure to set up the Office of Special Trustee in a manner that my tribes see as respectful and then turn around and use funds that should otherwise go toward TPA, law enforcement, education, housing and so on, they view, and I share their concern, as another breach of the Federal Government's responsibilities, borne out of treaties and trust relationships.

Second, we are spending, as we all know, $1 billion a week in Iraq, and some of that is going to building hospitals and schools, but the White House tells us that we are going to cut funding for construction of hospitals and schools here at home. Overall, the BIA school construction account is being cut by almost $66 million.

One of the schools on the construction priority list is Enemy Swim up at Sisseton-Wahpeton. I am very pleased that Acting Secretary Aurene Martin has issued a decision to the tribe indicating that its square footage and funding was set. So you can imagine my surprise and dismay this week when Chairman J.C. Crawford at Sisseton-Wahpeton told me that the BIA at Albuquerque is now reneging on that promise. I am very pleased that Ms. Martin has worked so closely with myself and my office.

We will continue to work with her, but it would appear that some of the subordinates at Albuquerque are calling shots they should not be calling. You can believe that the Sisseton-Wahpeton delegation, including Senator Daschle and our friends from North Dakota, will be following up on this with great energy.

Every aspect of Indian funding is hurting, housing, health care, education, and infrastructure. I understand it is a tough fiscal year and I understand the tribes are not going to get everything that

they would like. However, there are just profound problems with the President's budget.

I will conclude my comments today by making mention of a major concern of all of our tribes. Tribes are simply not getting the funding they needed to have credible tribal courts and effective law enforcement. This was highlighted to me by the Rosebud and Pine Ridge delegation, and underscored by the domestic violence advocates. The safety of our people literally is at risk. They have the statistics to prove it. We have to be responsive to that need.

I welcome Mr. Hartz to South Dakota, and I also want to express appreciation again for Dr. Grim's willingness to come to South Dakota. I think they are doing the best they can with an inadequate budget, but I am appreciative of their willingness to come out and see first-hand on the ground the crisis that we have there.

I am disappointed, and I share your disappointment, Mr. Chairman, that at this hearing not only is Mr. Anderson not here, but the BIA itself has not even testified. I commend Ms. Martin for her work, but I think that it would serve the committee well if the BIA's agenda was laid out in a more explicit manner here before the committee.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Thomas, comments?

Senator THOMAS. No; I really do not have a statement, Mr. Chairman. I am pleased to be here. It is going to be difficult and we are going to hear all the time that there is not enough money in these budgets by the same people who are complaining about the deficit. So it is going to be hard to balance these things. We look forward to working with it to fill the needs.

The CHAIRMAN. Senator Murkowski.

Senator MURKOWSKI. Thank you, Mr. Chairman.

STATEMENT OF HON. LISA MURKOWSKI, U.S. SENATOR FROM ALASKA

Senator MURKOWSKI. I would like to make an opening statement. I do not know if I am going to be around to ask questions of the witnesses, as I have to go preside this morning. So I would like to make a couple of comments about the budget that we have in front of us, the second in our series of hearings on the fiscal year 2004 budget request. A couple of weeks ago we heard from the representatives of the tribes. Ordinarily, it is in the other order. We will hear from agency witnesses first, but because of the ricin incident, the people spoke up first on this.

As we look at the committee room, the constituents of this committee are the Indian tribes and the Alaska Native villages that make up Native America. It is appropriate that the agencies which have a trust responsibility to our first people, listen first and then speak. So it is interesting that it has kind of worked out that way this particular year.

To the representatives of our agencies, I hope that you took the time to review the testimony of the tribal representatives. In its coverage of the hearing, the newspaper Indian country Today took note to the testimony of my constituent, Don Kashevaroff, who is the chief of the Seldovia Village Tribe. He asked why in this trillion

dollar budget can we not keep the first Americans from falling behind in health care. Don's testimony really struck a chord in me.

The budget that has been presented calls for $2 trillion in overall spending, $782 billion in discretionary, and yet the Community Health Aid program in Alaska, which is truly an innovative program which provides the only health care available in some 178 Alaska Native villages, gets an increase of $2 million. Don't get me wrong. I am glad that Community Health Aid is getting funded at all, but the need is more on the order of $7.4 million. In a budget with more than $700 billion of discretionary spending, we end up quibbling or arguing over about a $5-million difference.

Rural sanitation issues. The environmental engineers who devote their lives to ending the third world conditions that plague our Native villages and the Indian reservations of the lower 48 say that they need a $20-million increase to continue their progress in fiscal year 2005, yet there is only a $10-million increase in the budget request. We know, certainly Senator Thomas has indicated, we all know this is a tough, tough budget year. An increase is an increase and we are thankful for that, but we need to look at where we are, where we are seeing these reductions. When we are talking about improving the health conditions of my constituents, of the Alaska Native people, it is a concern.

Roughly a $1.6-billion unmet need in Indian sanitation and about 40 percent of that unmet need is in Alaska, where we have some 38 percent of the homes that do not have potable water. We can really do better than that. We should do better than that.

There is the IHS facilities construction budget, which really sticks out. I suppose it is something of a blessing that there are modest increases in some of the clinical services accounts, but we have been presented with a $52-million decrease in the facilities construction budget. We have a hospital, an IHS hospital up in Barrow, Alaska in desperate need of replacement. The Nome hospital is also not far behind. But this budget will not be sufficient to move forward with these next steps.

Now, I know that many of the witnesses in the hot seat today are advocates for the Native people in their respective agencies. I know that they may have had other ideas for the budget. Likewise, there are many different ideas about how much of a budget increase we can achieve for Indian health in the current environment.

Some of my colleagues believe that we should focus on the disparity between what the Federal Government spends on each Indian and what it spends on a Federal prisoner. I think it is a tragedy that we have to do that. The National Indian Health Board has suggested that a reasonable increase this year should be on the order of 15 percent. I would like to think that we might be able to come close to that.

Mr. Chairman, I want my colleagues to know that I look forward to working with them, certainly on a bipartisan basis, to work with this budget, to amend this budget so that it does include a meaningful increase for Indian Health Services.

This budget not only causes our first Americans to fall behind in health care, as I have mentioned, but it also causes our first Americans to fall behind in housing and in education. I am skeptical

about whether the $5 million increase in the tribal priority allocations is minimally sufficient. I hope that we will be able to find some additional money for these areas as well.

As I have indicated, Mr. Chairman, I probably will not be around to ask the series of questions that I would like this morning. I appreciate the opportunity to serve on this committee and to help you and the others work to improve the lot of our Native peoples wherever they live throughout the country. I look forward to the testimony this morning.

Thank you.

The CHAIRMAN. Thank you.

I have a series of questions dealing with the new secretarial authority with probate reform, with fractionation and a bunch of things, but I am going to submit those because we have four people more that we are going to try and fit in before we have to go vote. I am going to submit those for the record and would ask that you get back in writing all the questions I submit to you.

I will yield to Senator Inouye.

Senator INOUYE. Mr. Chairman, I will do the same. I have questions for the Director. First, this is a special request of the Indian Health Service people. Will you convey to the Indian Health Service our request that, if they would be willing, would they meet with the representatives of the board of the Tuba City Regional Health Corporation in regard to their proposal for a joint venture with the Indian Health Service while they are they are in town this week? Can you arrange that meeting?

Mr. HARTZ. Absolutely. I was aware that they were in town and that there was a request being made. Yes.

Senator INOUYE. I am certain they will be very pleased.

How will the President's budget request for fiscal year 2005 address pay raises, population growth, and inflation?

Mr. HARTZ. The budget includes $36 million for pay to address Federal and tribal and urban pay in this particular budget.

Senator INOUYE. Will this in any way address the disparities between American Indians and Alaska Natives and the rest of America?

Mr. HARTZ. The primary way that we see addressing those disparities with the budget that we have presented are picked up in some of the elements. As an example, the health promotion and disease prevention dollars that we have requested. As I indicated earlier, we believe a lot of inroads can be made in some of the chronic diseases, even though it is going to take time, by addressing changes in lifestyle and behaviors.

Additionally, we are looking to establish additional Tribal Epi Centers by which we can better target our efforts and ensure that the limited resources can be most appropriately used to address those disparities. Sanitation facilities is another arena that we believe assists us in addressing the disparities as well. This request includes $10 million for that purpose.

Senator INOUYE. The census suggests that the urban Indian population has increased quite a bit, yet the level of funding for urban Indian health programs remains at $32 million. Is that sufficient?

Mr. HARTZ. The budget as it relates to pay act includes about a 2.5-percent increase for the urban program. The overall funding

that IHS provides to the 34 urban programs amounts to about 48 percent of their program. They actually do very, very well in leveraging their resources, as IHS does in a number of its programs. One that came to mind, as Senator Murkowski was talking about sanitation is that for every dollar appropriated, we are getting almost 50 cents from other sources to supplement our appropriations. Urbans do very, very well in that regard.

Senator INOUYE. There is a $1-billion backlog in facilities construction in Indian country, yet you have a $42-million decrease proposed for this century. How do you hope to cope with this critical need?

Mr. HARTZ. There is no question it will be difficult, however the important thing that comes out of this budget is we are going to be able to bring on line, with that $23 million in staffing, five new facilities. Three of those came out of the Joint Venture Program that the tribes are constructing with their capital funds. With your support, we are going to be able to staff, equip and operate all of those facilities.

So there are five facilities, and we are going to complete funding with the facilities dollars that we are requesting in this appropriation for Sisseton and Red Mesa, Sisseton in South Dakota, Red Mesa in Arizona. We have resources to move forward on the designs at Clinton and Eagle Butte. So we are continuing to address that backlog, but as you point out, sir, we are not moving as rapidly.

Senator INOUYE. Among the primary responsibilities of your Service, I am certain you will agree that provision of safe and adequate water supply systems and sanitary sewage waste treatment is a high priority. Because of the rural nature of Indian country, and because of the neglect of the past, many reservations lack basic infrastructure. For example, one out of every five Indian houses lacks complete plumbing facilities. I have been in several of those without plumbing facilities. How do you propose to cope with this?

Mr. HARTZ. Well, this budget identifies an additional $10 million for the sanitation facilities program, which will take us from $93 million to $103 million. As I was reflecting back in my opening remarks, we have come a long way from when I, as a field engineer, chatted with an elderly Navajo lady near her hogan about bringing water and sewer into her home.

Well, we were having a little difficulty because I did not speak Navajo too well and she did not speak English too well. So through our sign language and ultimately the help of a fine Navajo interpreter, I found out what her position was on this issue. She was very much interested in the water coming, "well, I wanted a yard hydrant," and then she was convinced that she would have water to her kitchen sink. But there was no way under the sun that she was going to defecate in her home. So the appropriate technology at that time was the pit privy. I am not saying that is where we are today, but we unfortunately do have some folks, as was pointed out in Alaska, utilizing less than what we are accustomed to. We believe that this $10 million will assist us in furthering our efforts to address that backlog of sanitation deficiencies.

Senator INOUYE. One of the reports that we have read suggests that there are more overcrowded conditions in Indian housing than

anywhere else in the United States, if not in the world. Do those conditions continue to exist?

Mr. HARTZ. I suspect that HUD might have a better answer for that than I might. I have seen instances where there is still quite a need for housing through some of the analysis that the BIA home program has done.

I will just stop there, because I am getting into an area that I am not real familiar.

Senator INOUYE. I asked that question because the crowding of rooms affects health, does it not?

Mr. HARTZ. Absolutely. Tuberculosis is one of them, sir, and other communicable diseases. So, we are encouraged by any resources that can be provided for housing programs in Indian country.

Senator INOUYE. How many professionals work in the Indian Health Service?

Mr. HARTZ. Our staffing level is right at about 15,500.

Senator INOUYE. Professionals?

Mr. HARTZ. Actually, I consider everybody professional. Where are you drawing the line, sir?

Senator INOUYE. Okay. Of that number, how many are Native Americans?

Mr. HARTZ. Of our 15,250 employees, two-thirds of them are Native American, 10,580.

Senator INOUYE. Out of 15,000, 250 are Natives?

Mr. HARTZ. Out of a total of 15,250 approximately, just under 10,600 are Native Americans, American Indian or Alaska Native.

Senator INOUYE. We have a way to go yet, have we not?

Mr. HARTZ. We certainly do. We are making tremendous inroads through the scholarship program and through loan payback and with the scholarship programs of other departments as well.

Senator INOUYE. Thank you very much.

The CHAIRMAN. Senator Murkowski, did you have questions before we move on?

Senator MURKOWSKI. Yes; just very quickly about the contract support clause, if I may.

My Alaska providers and the self-governance tribes nationally are pretty upset about the gap between contract support costs owed and the amount paid. What I would like to know is how much does IHS currently owe the tribes? If contract support costs are funded at the budgeted amount, how much will the tribes be owed at the end of this fiscal year 2005? Can you address that?

Mr. HARTZ. There is a fund called the shortfall fund that has been identified. I presume that is what you are referring to. That amount is currently at about $100 million.

Senator MURKOWSKI. That amount is $100 million, then if the contract support costs are funded at this budgeted amount, how much will then be owed to the tribes?

Mr. BLACK. Senator, we fund about two-thirds of the need right now. As Mr. Hartz said, the requirement actually projected for 2005 is $111 million shortfall.

The CHAIRMAN. For the record, would you identify yourself?

Mr. BLACK. I am sorry. Excuse me. My name is Douglas Black. I am the director of the Office of Tribal Programs in IHS.

So there is an enormous shortfall in contract support costs. Our average level of funding for contract support costs of tribes in the Indian Health Service is about 82 percent, but we do have tribes even funded below that average.

Senator MURKOWSKI. So you say that it is about two-thirds is what you would makeup. So how do the tribes fund the difference? Do they do it through cuts in services or how is that made-up?

Mr. BLACK. Senator, we project that we will fund roughly two-thirds of the cntract support cost need in 2005 with having to makeup the other one-third of the CSC need. Reluctantly, that is what they are having to do. Many of the tribes, I believe, are having to divert some of their health care money to support administrative functions that are critical to health care delivery. It is not a good situation, but it is the reality that we presently find ourselves in.

Senator MURKOWSKI. I know I was only going to ask about the contract support costs, but since I have you here, I mentioned the Alaska Community Health Aid Program and the value to certainly my constituents in Alaska. I mentioned that we are going to be looking at a funding increase of $2 million. Based on what you know of the program and how it works in Alaska, do you believe that it merits an additional increase?

Mr. HARTZ. The Community Health Aid Program in Alaska is truly a model. It does a remarkable job in its outreach to those village communities and what it is able to do through the utilization of tele-health. Having experienced those aids sending in their digital images into Kotzebue from the outlying communities when there is no other means of transportation or to have the highly trained health professional people out there in the villages daily. I am truly impressed. Worldwide, it is noted and it is being passed on to others for replication.

Two million dollars is going to make a definite improvement in what they are able to do and expand the numbers. They probably do have a greater need, but I do not know what the total number would be on that, but I know that this will make a tremendous improvement.

Senator MURKOWSKI. When I met with Dr. Grim, not only here in Washington, but up in the State, we had a great opportunity to talk about his focus on prevention, which I am very, very supportive of. What is contained in this budget that helps us with the prevention component as it relates to health care?

Mr. HARTZ. From the prevention standpoint, in the Health Promotion and Disease Prevention [HPDP] funds that we have identified, we are looking to expand from 25, the programs that we have currently in place, up to 50, to target special health promotion, disease prevention activities that we can learn from and further replicate.

We also have the additional $50 million that has just come in, to the diabetes program. That amount is going to be a tremendous benefit to us in dealing with prevention and public health activities. Obesity is the precussor for so, so many things. Additionally, we are making inroads through the National Diabetes Program with the Department of Agriculture and the kinds of foods that go into the schools in Indian country. We are working with a number

of other entities, and even the private sector, on how we can acquire resources to address the diabetes problem and further amplify our efforts in prevention and public health.

Senator MURKOWSKI. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

I thank this panel for appearing today. We will now go to panel 2, Victoria Vasques, director, Office of Indian Education; and Michael Liu, the assistant secretary, Public and Indian Housing; David Garman, assistant secretary, Energy Efficiency and Renewable Energy; and Tracy Henke, the deputy associate attorney general.

We will just combine both of these panels in the interest of time. We will proceed as it is listed on the docket here, with Ms. Vasques starting. To all of the panelists, if you would like to abbreviate, we would appreciate that.

Ms. Vasques, would you proceed.

STATEMENT OF VICTORIA VASQUES, DIRECTOR, OFFICE OF INDIAN EDUCATION, DEPARTMENT OF EDUCATION, ACCOMPANIED BY CATHIE MARTIN, GROUP LEADER; LONNA JONES, ACTING DIRECTOR, ELEMENTARY, SECONDARY AND VOCATIONAL EDUCATION, DIVISION OF THE BUDGET SERVICE

Ms. VASQUES. Good morning, Mr. Chairman and members of the committee. On behalf of Secretary Paige, I thank you for the opportunity to discuss our fiscal year 2005 budget request for the Department of Education, especially with programs that address and serve the needs of American Indians, Alaska Natives and Native Hawaiians.

I also request that my written statement be entered for the record

The CHAIRMAN. Without objection, it will be in the record. All of the statements, in fact, will be included in the record.

Ms. VASQUES. My name is Victoria Vasques, and I am the deputy under secretary and director for the Office of Indian Education. In this capacity, I oversee the programs that support the efforts of local education agencies, Indian tribes and organizations that assist American Indian and Alaska Native students in achieving to the same high standards as all our students.

The Department of Education, led by Secretary Paige, is strongly committed to providing resources that support the No Child Left Behind Act, and improving educational opportunities for all students, and Indian students are no exception.

We recognize and reaffirm the special relationship with the Federal Government to American Indians and their sovereign tribal nations, and our commitment to educational excellence and opportunity.

Over the past year, there have been a number of positive developments in the Department. I would like to just go over a few. The Secretary elevated the Office of Indian Education so that it now reports directly to the Under Secretary of Education. The National Advisory Council on Indian Education charter has been authorized through 2007, and candidates, which have been recommended by the Indian communities, are waiting presidential appointment.

The Secretary visited the Gila River Indian community a few months ago, where he toured the community's new Early Childhood Education Center and awarded $750,000 to help prepare our 3- and 4-year-old students for kindergarten. Also, we are working in partnership with our tribal education departments and the BIA to improve our program services.

Working with each of you, the Department wants to make it possible for every child, including Indian children, to be well prepared academically and ensure that the future generations of Indian students are not left behind. As you know, in a bipartisan effort 2 years ago the President launched the most important reform of public education by signing into law the No Child Left Behind Act. The law is based on stronger accountability, more choices for parents and students, greater flexibility for States and school districts, and the use of instruction that has been proven effective through scientifically based research. The overall goal is to ensure that every student, including American Indians, Alaska Natives and Native Hawaiians, will be proficient in reading and mathematics.

Indian students will continue to benefit from major initiatives in the NCLB Act, and many programs at the Department help to ensure that our students have full access to these and other reforms to improve education.

Overall, estimates show the Department programs provide nearly $1 billion in direct support specifically for American Indians and Alaska Natives. In addition, significant funds are provided to Indian students who receive services through Federal programs such as title I grants to our local education agencies, our IDEA State grants which also provide services to other disadvantaged populations.

The 2005 budget request includes a number of programs and initiatives that focus specifically on helping Indian students achieve. The 2005 budget request for the Department's Indian education programs is $120.9 million. These programs, which are administered by my office, include formula grants to school districts, competitive special programs and national activities.

We are requesting $95.9 million for Indian education formula grants to school districts. This program is one vehicle for addressing the unique educational and culturally related needs of Indian children. These grants supplement the regular school program, helping Indian children improve their academic skills, raise their self-confidence, and participate in enrichment programs and activities that otherwise would be unavailable. The requested level would provide an estimated per-pupil payment of $203 for approximately 472,000 students in almost 1,200 school districts and BIA schools.

Our request for special programs for Indian children is $19.8 million. Approximately $10 million will support our demonstration grants that focus on school readiness for Indian preschool children and college prep programs. In addition, the 2005 request will provide over $9 million to continue two training efforts under our Professional Development Program: First, the American Indian Teacher Training Corps; second, the American Indian Administrator Corps initiatives. Both programs are designed to provide full State

certification and in-service support to these new Indian teachers and Indian administrators.

We are requesting approximately $5.2 million for research evaluation data collection and technical assistance related to Indian education. Fiscal year 2005 funds would be used to continue support for the third phase of the National Indian Education Study that will collect data through the National Assessment of Education Progress on American Indian and Alaska Native 4th- and 8th-grade students' performance in math and reading. Funds would also be used to continue research grants and data collection initiated in earlier years and to promote ongoing program improvement for Indian education programs.

In addition to the Indian education programs I have just mentioned, the Department also supports the education of Indian students through other programs. The written statement describes our proposal for each of them, but I would like to touch on just a couple highlights.

Title I. Title I provides supplemental education funding to local education agencies and schools, especially in our high-poverty areas to help more than 15 million educationally disadvantaged students, and included an estimated 260,000 Indian children, to learn at the same high standards as other students.

It is important to note that in our school districts, title I funds benefit many of our Indian students. The Department is requesting $13.3 billion for title I grants to local education agencies in fiscal year 2005, a 52-percent increase since the passage of NCLB. Under a statutory set-aside of 1 percent for the BIA and outlying areas, the BIA receives approximately $97.9 million, an increase of more than $7.8 million.

Reading First is a comprehensive effort to implement the findings of high quality research on reading and reading instruction, helping all children read well by the third grade, one of the Administration's highest priorities for education. Providing consistent support for reading success from the earliest age has critically important benefits. Under this formula program, the BIA will receive .05 percent of the State grants appropriated, approximately $5.6 million, an increase of $500,000.

Special ed grants. Special education grants to the States' programs provide formula grants to meet the excess cost of providing special education and related services to children with disabilities. Under the budget request of a little more than $11 billion, the Department would provide approximately $83.2 million to the BIA, more than a $1-million increase, to help serve approximately 7,500 Indian students.

In conclusion, the 2005 budget request for the Department of Education programs serving American Indians, Alaska Natives and Native Hawaiians supports the President's overall goal of ensuring educational opportunity for all students.

I thank you for the opportunity to appear before the committee. My colleagues that are here with me today and I are happy to respond to any of your questions.

[Prepared statement of Ms. Vasques appears in appendix.]

The CHAIRMAN. Thank you.

Mr. Liu.

STATEMENT OF MICHAEL LIU, ASSISTANT SECRETARY, PUBLIC AND INDIAN HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Mr. LIU. Good morning, Mr. Chairman, Mr. Vice Chairman. Thank you for inviting me to provide comments on the Administration's fiscal year 2005 budget.

My name is Michael Liu, and I am the assistant secretary for Public and Indian Housing. I am responsible for the management, operation and oversight of HUD's Native American programs. I will summarize my written testimony.

We serve these tribes directly or through their tribally designated housing entities by providing grants and loan guarantees designed to support affordable housing, community and economic development, and other types of eligible purposes. Our partners are diverse. They are located on Indian reservations and Alaska Native villages, and other traditional Indian areas, and most recently on the Hawaiian homelands.

You may recall that when I testified before you 2 years ago, I noted that there appeared to be a backlog of funding not obligated or expended by tribes. Since that time, on most recent reports which track and are recorded by the Department's electronic line of credit control system, LOCCS, now shows that 80 percent of all grant funds appropriated through NAHASDA have been obligated, and over 88 percent in fact have been disbursed and expended. Obviously, the tribes have responded, both in terms of their actions, as well as in terms of providing us better information so that we know now that the dollars are being spent on a timely basis.

An overall synopsis of the budget will follow. The President's budget proposes a total of $739 million specifically for Native American, Alaska Native and Native Hawaiian housing through HUD. There is $647 million authorized under the Native American Housing Assistance and Self-Determination Act. Of that amount, roughly $640 million is for direct formula allocations through the Indian Housing Block Grant Program. $1.85 million in credit subsidy will leverage $17.9 million in loan guarantee authority through the Title VI Loan Guarantee Program. $71.575 million is for grants under the Indian Community Development Block Grant Program, and $1 million in credit subsidy will be provided to support $29 million in loan guarantee authority through the section 184 Indian Housing Loan Guarantee Fund.

The Native Hawaiian community will receive through the Department of Hawaiian Homelands $9.5 million for the Native Hawaiian Housing Block Grant Program, $1 million for the section 184(a) Native Hawaiian Loan Guarantee Fund, which will leverage $37.4 million in loan guarantees. There is a total of $5.4 million available for training and technical assistance to support these programs.

Finally, the Department requests a total of $6.5 million to support American Indian, Alaska Native and Native Hawaiian-oriented higher education institutions.

To focus on a couple of items very quickly, sir, the Title VI Guarantee Loan Fund and Title 184 Guarantee Loan Funds are supported this year, but I do want to note that there is a significant accumulation of backlog credit subsidy and credit authority. For

the title VI program, the amount is close to $400 million; for the 184 program, it is in excess of $500 million. To that end, should there be credit subsidy still in existence by the end of 2005, the budget does propose the rescission of a total of $54 million in credit subsidy for these programs. However, that will still leave significant amounts of both credit subsidy and commitment authority for both the title VI and the 184 program. For title VI, it would be $34.6 million in commitment authority available, and for 184, $226 million available.

Let me also mention that the Native Hawaiian Housing Block Grant Program has been proceeding very well. The Department of Hawaiian Homelands over two administrations of two different parties have been very good in expending dollars and having specific projects. We can provide information if needed by the committee on that.

Finally, Mr. Chairman, let me mention that we have just concluded last month 1 year-long, seven separate meeting process regarding the formula funding for NAHASDA, a negotiated rulemaking in which I was involved at every meeting. I believe was successfully concluded. It addressed some very knotty issues such as minimum funding, over-and under-counting of formula current assisted stock, and definitions such as substantial housing services. I want to take the chance to thank all of the tribal leaders who were involved. Things went, I thought, very well.

This concludes my remarks. We stand ready to answer any questions.

Thank you.

[Prepared statement of Mr. Liu appears in appendix.]

The CHAIRMAN. Thank you.

I am going to submit my questions for the record. That was a call to vote. So we will be taking about a 10-minute recess. When we reconvene, Senator Inouye will chair, then.

Thank you.

[Recess.]

Senator INOUYE [ASSUMING CHAIR]. May I now call upon Mr. Garman, Assistant Secretary for Energy Efficiency and Renewable Energy, Department of Energy.

STATEMENT OF DAVID GARMAN, ASSISTANT SECRETARY OF ENERGY EFFICIENCY AND RENEWABLE ENERGY, DEPARTMENT OF ENERGY

Mr. GARMAN. Thank you, Mr. Chairman. The hour is late and I will be brief.

I am the assistant secretary who leads the Department of Energy's renewable energy and energy efficiency activities. Today I will attempt to represent the Department's activities of greatest interest to American Indian tribes and Alaska Natives, beginning with those in my office.

The Office of Energy Efficiency and Renewable Energy has a tribal energy program. We use that program to assist tribes in assessing the feasibility of renewable energy projects on tribal lands. We also use that program to help tribes develop renewable energy projects of their own, to assist them with their energy planning

needs, and to promote energy education and training through tribal colleges and other means.

The President's 2005 budget request for the Tribal Energy Program is $5.5 million, a 12-percent increase over the amount appropriated last year. I must note, however, that two-thirds of our fiscal year 2004 Tribal Energy Program was directed to three specific recipients as a consequence of an appropriations earmark, so our ability to assist a greater number of tribes and to distribute the funding competitively will be severely compromised this year.

Another program which has proven to be extremely beneficial to tribes is our low-income weatherization program. The President's fiscal year 2005 budget seeks a $64-million increase for weatherization. If Congress agrees to that request, since it is a formula grant, the funding that goes to tribes under this program will rise as well.

Elsewhere in the Department, the cleanup of Department of Energy sites is an issue of tremendous concern to many tribes. In the continuing effort to accelerate the cleanup of these sites, the President has proposed $7.43 billion, or a 6.1-percent increase to the Office of Environmental Management. The Office of Environmental Management also works directly with tribes, consulting with and involving them in risk reduction and cleanup activities. Specific support for tribal efforts totaled just over $6 million in fiscal year 2004, and the President's budget requests an equivalent amount for fiscal year 2005.

We have other examples as well. The Office of Nuclear Energy provides $650,000 per year to the Shoshone-Bannock Tribes for air quality monitoring, environmental sampling, emergency planning and response, and cultural protection activities at the Idaho National Laboratory. The Office of Science provides $700,000 to Indian tribes and Alaska Natives as a consequence of education outreach and technical support activities associated with its atmospheric radiation monitoring, or ARM, program. The Office of Civilian Radioactive Waste Management maintains a $500,000-per year program to consult with affected tribes on issues associated with the transportation of waste to Yucca Mountain.

Finally, Mr. Chairman, DOE's Office of Small and Disadvantaged Business Utilization helps small businesses, including Native American businesses, bid for contracts from the Department of Energy. One recent example is a $26-million 2-year contract with an Alaska Native-owned firm to participate in the management and operation of the Strategic Petroleum Reserve. If memory serves, the Department procures about $19 billion worth of goods and services each year, and we are making an effort to un-bundle those contracts in such a way to ensure that we have ample opportunities for small and disadvantaged businesses, including Indian and Alaska Native firms, to compete.

With that, Mr. Chairman, I would be pleased to answer any questions that the committee might have, either now or in the future.

Thank you for this opportunity.

[Prepared statement of Mr. Garman appears in appendix.]

Senator INOUYE. Thank you very much, Mr. Garman.

May I now call on the deputy associate attorney general at the Department of Justice, Tracy Henke.

Ms. Henke.

STATEMENT OF TRACY HENKE, DEPUTY ASSOCIATE ATTORNEY GENERAL, DEPARTMENT OF JUSTICE

Ms. HENKE. Thank you, Senator Inouye.

My name is Tracy Henke. I am the deputy associate attorney general for the Department of Justice. It is a pleasure to be here today to discuss the Justice Department's proposed fiscal year 2005 budget priorities for Indian country.

As all of us are aware, the needs of Indian tribal governments in combating crime and violence continue to be great. As the Department stated to this committee last year, the President and the Attorney General remain committed to addressing the most serious law enforcement problems in Indian country, including substance abuse, domestic violence and other violent crimes, and to ensuring that federally recognized Indian tribes are full partners in this effort.

The Administration's continued commitment to federally recognized American Indian communities is reflected in the President's fiscal year 2005 request of $49 million for the Office of Justice programs and its Office on Violence Against Women, and $20 million for the Department's COPS office. The President's budget request for fiscal year 2005 will allow the Department to continue most of our tribal programs near the fiscal year 2004 level.

Many of OJP's tribal programs focus on alcohol and drug abuse, which continue to be a major problem in Indian country. The President's fiscal year 2005 budget request is $4.2 million for the Indian Alcohol and Substance Abuse Demonstration Program. In addition, OJP works to ensure that federally recognized Indian tribes and Native Alaska villages and corporations benefit from the Drug Court Program which provides funds for drug courts that provide specialized treatment and rehabilitation for nonviolent offenders. In the fiscal year 2005 budget, we have requested $67.5 million for this overall program.

It also, sir, continues to be a sad fact that American Indian and Alaska Native women suffer disproportionately from domestic violence and sexual assault. For fiscal year 2005, the Department is requesting a total of $19.8 million for all of our tribal violence against women programs. This is a $1.3-million increase over the fiscal year 2004 level.

Tribal communities also benefit from funds available through the Department's Victims Assistance in Indian country Discretionary Grant Program, through our Office for Victims of Crime. These funds can be used for many different services, including emergency shelters and counseling. In addition, the Children's Justice Act Program provides funds to improve the investigation, prosecution and handling of child abuse cases in Indian country.

For fiscal year 2005, the President's budget requests $20 million for the COPS office to address pressing needs in tribal law enforcement. The COPS office with its training partners also has developed specialized culturally relevant basic community policing training for agencies receiving grants from the COPS office. To date, 149 tribal law enforcement agencies have received basic community policing training.

One of the many challenges that federally recognized Indian tribes and Native Alaskan villages and corporations face is collecting reliable data on arrests, victimizations and other criminal justice-related issues. Since 2001, the Department has provided assistance to create the Tribal Justice Statistics Assistance Center, which became operational last month. The Center works with tribal justice agencies to develop and enhance their ability to generate and use criminal and civil justice statistics.

OJP plans on continuing its assistance for this project, as well as the National Tribal Justice Resource Center in Boulder, CO which provides tribal justice systems with assistance that is comparable to that available to Federal and State court systems.

Finally, one of the most important duties of the Department is the prosecution of Federal crimes in Indian country. Responsibility for prosecuting Federal cases in Indian country falls on the U.S. attorneys' offices. The U.S. attorneys work with and through local task forces to address the needs of Indian country law enforcement on pressing issues such as gang violence, drug and gun crimes. In fiscal year 2003, the U.S. attorneys' offices filed 679 cases pertaining to violent crime in Indian country. These offenses included homicides, rapes, aggravated assaults, and child sexual abuse. Prosecuting crimes in Indian country is estimated to cost $19 million and 145 work years during the 2004 and 2005 fiscal years.

Additional efforts to address Indian country issues include the Attorney General's Advisory Committee, the Native American Issues Subcommittee, which consists of 26 U.S. attorneys who have significant amount of Indian country in their respective districts. The committee meets regularly to discuss its current priorities for Indian country, which include terrorism, violent crime, white collar crime and resolution of jurisdictional disputes.

In addition, through the Office of Justice Programs, the Department is also working to build State-tribal relations in law enforcement and justice communities. Partnering with the International Association of Chiefs of Police and its Indian country law enforcement section, OJP is sponsoring regional meetings to highlight promising tribal–State efforts throughout the Nation. Two meetings have already occurred and for two more, the planning is already underway.

Attorney General Ashcroft has pledged to honor our Federal trust responsibility and to work with sovereign Indian nations on a government-to-government basis. The Attorney General and the entire Justice Department will honor this commitment and continue to assist tribal justice systems in their effort to promote safe communities. We are confident that our current activities and our fiscal year 2005 proposed budget reflect these priorities.

Once again, sir, thank you for the opportunity to be here, and I look forward to answering any questions.

[Prepared statement of Ms. Henke appears in appendix.]

Senator INOUYE. Thank you very much, Ms. Henke.

Before proceeding, I would like to thank all of you and commend you for your service to our country.

May I first ask a few questions of Ms. Vasques. What is your rationale for eliminating funds authorized by the use of title VII(b) funds for construction, renovation and modernization of public

schools serving a predominantly Native Hawaiian student body? I notice that the budget eliminates funding for this purpose.

Ms. VASQUES. In the 2005 budget the Administration is not proposing to continue special appropriations language that was added by Congress in the 2003 and 2004 appropriations bills so that all funds can be used to continue the provision of education-related services to the Native Hawaiian population.

Senator INOUYE. Was that a matter of priorities? Or did you just decide not to follow the direction of the Congress?

Please identify yourself?

Ms. JONES. I am Lonna Jones, acting director of the Budget Office in the Department of Education for Elementary, Secondary and Vocational Programs. The request for the education for Native Hawaiian Programs does not include the special language for construction, since the budget priority is on using all the funds requested for programs.

Senator INOUYE. So the program's congressionally initiated priorities may not be high.

May I now go to Michael Liu, assistant secretary. The Housing Block Grant Program has been funded at the same level over the last several years, and the President's proposal for fiscal year 2005 request is no exception at $647 million. Given the need for habitable and safe housing in Indian country, increasing inflation, new construction costs, funding at the same level actually represents a decrease, does it not?

Mr. LIU. Mr. Chairman, given the competing interests that we have within the Department, within the Administration, we believe that the proposal of $647 million, which does represent essentially flat funding in relation to 2004 and 2003, is a very fair offering for the program. Clearly, there is great need in Indian country. There is no question about it. But we believe that what we have proposed here certainly will continue the progress that has occurred in the program.

I think the amount also has to be associated with looking at how we can further, and I mentioned this in my earlier comments, the use of both the section 184 Loan Guarantee Program and title VI programs, where we have a significant amount of unused credit subsidy and commitment authority. We have made it a high priority within public and Indian housing and the Office of Native American Programs to make much greater use of that resource so that we can leverage our actual budgeted dollars, sir.

Senator INOUYE. There are a couple of elements. First, the population of Indian country has grown exponentially. And second, like all societies, you will find a spectrum that ranges from the very wealthy Indians and the very, very poor Indians. Now, wealthy Indians can easily enter into loan guarantee programs, but when you have Indians with not a single bank account, how do you propose to help them with loan guarantee programs?

Mr. LIU. Sir, I have engaged personally in discussion with many of the leaders of the tribal housing authorities. We still need to do a lot more in educating both the tribal leaders who are involved in housing and banks as to use of the guarantee loan programs, which do permit, which can, in association with other programs that are offered by banks, other programs that are offered by the GSEs, to

help reach down to a lower income level than currently exists, in terms of the perception as to what can be done and what groups can be used.

We do estimate that we can do over $200 million in section 184 loans this year with the market that is available. We just have not worked hard enough, and I mean HUD, the tribes and the banks, to make that happen, sir.

Senator INOUYE. I agree with you. It all sounds good, especially if someone is going to college and can understand the language, but not all of us have been so blessed. But one thing we know, Indian housing is the worst in the United States. No other ethnic group can compare with it. For that matter, it compares rather favorably with third world countries. So I would hope that your agency will take a special look at this, and at least take into consideration the increasing population and the fact that there are more people in poverty in Indian country than any other area of the country.

Mr. LIU. Yes, sir; thank you.

Senator INOUYE. I would like to thank you, Mr. Liu. Because of time, I am just going to ask a few questions of all.

Mr. Garman, the President's budget request for 2005 for the intergovernmental activities of the Energy Supply Program is $16 million. Part of this program funds the Tribal Energy Program which helps Native Americans develop renewable energy resources on their lands. How does the President's budget request support this vital program?

Mr. GARMAN. We propose to increase that funding by 12 percent. Last year, I believe it was funded at just under $5 million. This year, we proposed to spend $5.5 million. We would like to increase that spending.

Senator INOUYE. As one who has been involved in energy programs involving Indian lands and Indian resources, do you believe that Native Americans are getting a fair return for their resources?

Mr. GARMAN. There is so much more that can be done. Native Americans, Indian country, probably comprises about 5 percent of the Nation's land area, but this land containing 10 percent of the energy resources in the Nation, and an even higher percentage of the renewable energy resources in the Nation. Our focus has been on that renewable energy. The tribes in the Great Plains, the Dakotas, have a tremendous wind energy resource. We have collaborated with the Rosebud Sioux on the construction of the first utility-scale wind project in Indian country.

It is very new. We are all learning. But it is our vision that we can help Indians become entrepreneurs in renewable energy and become ones who have this tremendous resource and develop it in a manner which is consistent with their cultural principles and their environmental values, to bring a lot more of that renewable energy on line.

Senator INOUYE. In the meantime, do you believe that they are being shortchanged or getting their fair share?

Mr. GARMAN. I think the import of your question points essentially to issues of royalty management and getting a fair return on the investment of energy resources from Indian country. I know that this is an area under litigation in the Department of the Inte-

rior. As a matter under litigation, I would prefer not to speak on that.

I will tell you, however, the Department of Energy held a tribal summit, the first of many annual tribal summits that we are going to be holding, just two days ago. I heard a remarkable story from Southern Utes who had taken the energy management on their own lands, into their own hands. They had developed the capacity to do that. I think that they have done a much better job than anybody else that I am familiar with. They are getting a higher return on their investment than many other Indian tribes around the country are enjoying.

Senator INOUYE. I realize this is not in your area of responsibility, but I just wanted to check because I saw not too long ago a comparison of company A doing business with certain private sector, and so much in returns; the same company doing business in the same area with an Indian tribe and that Indian tribe gets less than one-half of the return that goes to others. That seems to be rather commonplace, doesn't it?

Mr. GARMAN. I have seen many reports along those lines. Yes, sir.

Senator INOUYE. I hope that your agency is going to do everything to help alleviate this problem.

Mr. GARMAN. Yes, sir.

Senator INOUYE. May I now ask the Justice Department a few questions, if I may. You spoke of the COPS program. It is the committee's understanding that the COPS grants are provided for 3 to 5 years. Am I correct?

Ms. HENKE. Often, sir, yes they are.

Senator INOUYE. How many tribal grants are expected to expire this year and in the fiscal year 2005?

Ms. HENKE. Sir, I do not have that number with me. I am happy to get that for you, but that is one of the ways that the $20 million COPS request that is in the President's budget will be used, to extend some of those grants that are scheduled to expire.

Senator INOUYE. And if no additional grants are provided, all of these officers, many of them, will be unemployed.

Ms. HENKE. It is a possibility, sir, if the grant is not extended and if the individual tribe has not identified tribal resources to extend those officers. It is that possibility. The COPS office has worked, though, and once again it is one of the reasons for the $20 million request, to extend some of those grants that are scheduled to expire.

Senator INOUYE. Can you go back and see if you can't add a few more dollars?

Ms. HENKE. One of the things that the COPS office and the Office of Justice Programs, is doing is working once again with the Tribal Resource Center and the statistics center, et cetera, to find ways to address those issues in Indian country. It is another reason that we are sponsoring the regional meetings with the IACP, the International Association of Chiefs of Police, to identify best practices so we can identify ways to help Indian country in addressing those law enforcement issues, including salaries.

Senator INOUYE. I bring this up because your agency just recently issued a report that suggested that American Indians and

Alaska Natives experience violence at a higher rate compared to the country as a whole.

Ms. HENKE. Yes, sir.

Senator INOUYE. And yet we have decreased COPS funding by $10 million. This time we are decreasing it by $5 million. In many cases, the terms of the grants are expiring. So though we have the worst violence in the United States, we are going to have no COPS, unless my mathematics are a little wrong. I hope you are going to do something about this.

Ms. HENKE. Once again, the $20 million request, as well as resources through the Office of Justice Programs are made available to the tribal communities to address law enforcement issues, as well as prosecution and adjudication. So yes, we look forward to working with the committee and the Congress in addressing those funding issues.

Senator INOUYE. According to your Justice Department's most recent report, new admissions to jails in Indian country, increased by 22 percent from June, 2001 to 2002. Over 33 percent of the offenders were held in the detention for violent offenses; 15 percent for domestic violence; and 11 percent for driving under the influence. Now, you have eliminated funding for detention facilities. What is the rationale for this? The incarcerated population seems to grow, but we are cutting down on the housing.

Ms. HENKE. Sir, a couple of years ago there was a report made available through the Department of Justice that did address the bed space in our prisons in Indian country. With the prison construction that we had on line and that was being proposed, we at the time thought that it would address these issues with once again what was coming on line.

In addition to that, though, in the past when the Administration has requested funds for the Tribal Prison Construction Program it has been 100 percent earmarked by the Congress and we have worked very hard to address those needs that Congress has identified for us. But it has limited our flexibility in providing some of those resources to some of the areas that might have greater need.

Senator INOUYE. As you are aware, Congress authorized the Stop Violence Against Indian Women Discretionary Grant Program in 1994, 10 years ago. Its purpose is to provide government funds to strengthen the tribal governments in response to violence against women. Under the law, tribes are eligible for 100 percent of Federal funds because a non–Federal match waiver is contained in the law. Most recently, your Department has interpreted the statute as requiring tribes to use only funds appropriated by Congress as matching funds, when this is not required in the law.

How do you propose to find these matching funds when other Federal agencies do not specifically appropriate funds to tribes for violence against women? Where do you go?

Ms. HENKE. What I can tell you right now is I am not familiar with the complete details of that. I do know that we have a response to the Senate and I believe also to the House that is currently under review. I can work to ensure that response is provided. We are reviewing often, I am certain other agencies as well, we look at the regulations that have been promulgated for the programs that we operate to ensure that they were done in full com-

pliance with the law. That was something that was undertaken within the OVW programs, the Office on Violence Against Woman.

So what I can assure you is I will go back and double-check the status of that and ensure that this committee gets a reply.

Senator INOUYE. Wonderful. I am sure the reservations will appreciate it very much.

Ms. HENKE. Thank you.

Senator INOUYE. My final one, may we request that the Department provide technical assistance to the committee, because we would like to draft legislation to establish a commission to address the framework for law enforcement in Indian country as it relates to homeland security. As you know, there are many Indian reservations along our international borders. We believe that these Indian nations should play an active role in homeland security.

Ms. HENKE. I can assure you, sir, that the Department would be more than happy to provide technical assistance in that manner. It is something that is of concern to the Department. Many Department officials have visited tribes that have a significant expanse of border with Mexico and with Canada. For our Native American Issues Subcommittee with the U.S. attorneys, that issue has been a prime focus for them. I actually went with them when they visited the border with the tribes down in Arizona and New Mexico.

So it is a priority for the Department. We would be happy to provide technical assistance.

Senator INOUYE. I thank you very much, Ms. Henke.

Ms. HENKE. Thank you.

Senator INOUYE. I thank all of you very much.

The record will remain open until the March 9. If you want to have any addendum provided or corrections made, please feel free to do so.

Until then, the committee is adjourned.

[Whereupon, at 11:22 a.m. the committee was adjourned, to reconvene at the call of the Chair.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF GARY J. HARTZ, ACTING DIRECTOR, OFFICE OF PUBLIC HEALTH, INDIAN HEALTH SERVICE

Mr. Chairman and members of the committee: Good morning. I am Gary Hartz, acting director of the Office of Public Health. Today I am accompanied by Mr. Robert G. McSwain, Director, office of Management Support and Mr. Douglas Black, Director, office of Tribal Programs. We are pleased to have this opportunity to testify on the President's fiscal year 2005 budget request for the Indian Health Service.

The IHS has the responsibility for the delivery of health services to more than 1.6 million members of federally-recognized American, Indian (AI) tribes and Alaska Native (AN) organizations. The locations of these programs range from the most remote and inaccessible regions in the United States to the heavily populated and sometimes inner city areas of the country's largest urban areas. For all of the AI/ANs served by these programs, the IHS is committed to its mission to raise their physical, mental, social, and spiritual health to the highest level, in partnership with them.

Secretary Thompson, too, is personally committed to improving the health of AI/ANs. To better understand the conditions in Indian country, the Secretary or Deputy Secretary has visited tribal leaders and Indian reservations in all twelve IHS areas, accompanied by senior HHS staff. The Administration takes seriously its commitment to honor its obligations to AI/ANs under statutes and treaties to provide effective health care services.

Through the government's longstanding support of Indian health care, the I/T/U Indian health programs have demonstrated the ability to effectively utilize available resources to improve the health status of AI/ANs. For example, there have been dramatic improvements in reducing mortality rates for certain causes, such as: from the 3 year periods of 1972–74 to 1999–2001, maternal deaths have decreased 58 percent, infant mortality has decreased 64 percent, and unintentional injuries mortality have decreased 56 percent, between the period 1972–99. More recently, ,the funding for the Special Diabetes Program for Indians has significantly enhanced diabetes care and education in AI/AN communities, as well as building the necessary infrastructure for diabetes programs. Intermediate outcomes that have been achieved since implementation of the Special Diabetes Program for Indians include improvements in the control of blood glucose, blood pressure, total cholesterol, LDL cholesterol, and triglycerides. In addition, treatment of risk factors for cardiovascular disease has improved as well as screening for diabetic kidney disease and diabetic eye disease.

Although we are very pleased with the advancements that have been made in the health status of AI/ANs, we recognize there is still progress to be made. As the Centers for Disease Control and Prevention recently reported, the AI/AN rates for chronic diseases, infant mortality, sexually transmitted diseases, and injuries continue to surpass those of the white population as well as those of other minority groups. The 2002 data show that the prevalence of diabetes is more than twice that for all adults in the United States, and the mortality rate from chronic liver disease

is more than twice as high. The sudden infant death syndrome (SIDS) rate is the highest of any population group and more than double that of the white population in 1999. Rates of chlamydia are 5.7 times higher than in whites, and the gonorrhea rate is 4 times higher than in whites. AI/AN death rates for unintentional injuries and motor vehicle crashes are 1.7 to 2.0 times higher than the rates for all racial/ethnic populations, while suicide rates for AI/AN youth are 3 times greater than rates for white youth of similar age. Maternal deaths among AI/ANs are nearly twice as high as those among white women.

Complicating the situation is the type of health problems confronting AI/AN communities today. The IHS public health functions that were effective in eliminating certain infectious diseases, improving maternal and child health, and increasing access to clean water and sanitation, are not as effective in addressing health problems that are behavioral in nature, which are the primary factors in the mortality rates noted previously. other factors impacting further progress in improving AI/AN health status are the increases in population and the rising costs of providing health care. The IHS service population is growing by nearly 2 percent annually and has increased 24 percent since 1994.

This budget request for the IHS will assure the provision of essential primary care and public health services for AI/ANs. For the 7th year now, development of the health and budget priorities supporting the IHS budget request originated at the health services delivery level. As partners with the IHS in delivering needed health care to AI/ANs, Tribal and Urban Indian health programs participate in formulating the budget request and annual performance plan. The I/T/U Indian health program health providers, administrators, technicians, and elected tribal officials, as well as the public health professionals at the IHS Area and Headquarters offices, combine their expertise and works collaboratively to identifying the most critical health care funding needs for AI/AN people.

The President's budget request for the IHS is an increase of $45 million above the fiscal year 2004 enacted level. The request will assist I/T/U Indian health programs to maintain access to health care by providing $36 million to fund pay raises for Federal employees as well as funds to allow Tribal and Urban programs to provide comparable pay increases to their staff. Staffing for five newly constructed health care facilities is also included in the amount of $23 million. When fully operational, these facilities will double the number of primary provider care visits that can be provided at these sites and also provide new services. The budget also helps maintain access to health care through increases of $18 million for contract health care and $2 million for the Community Health Aide /Practitioner program in Alaska. The increase for CHS, combined with the additional purchasing power provided in Section 506 of the recently enacted Medicare Prescription Drug, Improvement, and Modernization Act, will allow the purchase of an estimated 35,000 additional outpatient visits or 3,000 additional days of inpatient care.

As mentioned previously, the health disparities for AI/ANs cannot be addressed solely through the provision of health care services. Changing behavior and lifestyle and promoting good health and environment is critical in preventing disease and improving the health of AI/ANs. This budget supports these activities through requested increases of $15 million for community-based health promotion and disease prevention projects, expanding the capacity of tribal epidemiology centers, and providing an estimated 22,000 homes with safe water and sewage disposal. An additional $4.5 million is requested for the Unified Financial Management System. This system will consolidate the Department's financial management systems into one, providing the Department and individual operating division management staff with more timely and coordinated financial management information. The requested increase will fully cover the IHS share of costs for the system in fiscal year 2005 without reducing other information technology activities.

The budget request also supports the replacement of outdated health clinics and the construction of staff quarters for health facilities, which are essential components of supporting access to services and improving health status. In the long run, this assures there are functional facilities, medical equipment, and staff for the effective and efficient provision of health services. As you know, the average age of IHS facilities is 32 years. The fiscal year 2005 budget includes $42 million to complete construction of the health centers at Red Mesa, AZ and Sisseton SD; and complete the design and construction of staff quarters at Zuni, NM and Wagner, SD. When completed, the health centers will provide an additional 36,000 primary care provider visits, replace the Sisseton hospital, which was built in 1936, and bring 24-hour emergency care to the Red Mesa area for the first time.

The IHS continues its commitment to the President's Management Agenda through efforts to improve the effectiveness of its programs The agency has completed a Headquarters restructuring plan to address Strategic Management of

Human Capital. To Improve Financial Performance and Expand E-Government, the IHS participates in Departmental-wide activities to implement a Unified Financial Management System and implement e-Gov initiatives, such as e-grants, Human Resources automated systems, et cetera. This budget request reflects Budget and Performance Integration at funding levels and proposed increases based on recommendations of the Program Assessment Rating Tool (PART) evaluations. The IHS scores have been some of the highest in the Federal Government.

The budget request that I have just described provides a continued investment in the maintenance and support of the I/T/U Indian public health system to provide access to high quality medical and preventive services as a means of improving health status. In addition, this request reflects the continued Federal commitment to support the I/T/U Indian health system that serves the AI/ANs.

Thank you for this opportunity to discuss the fiscal year 2005 President's budget request for the IHS. We are pleased to answer any questions that you may have.

Prepared Statement of David Garman
Assistant Secretary for
Energy Efficiency and Renewable Energy
U. S. Department of Energy
Before the
Committee on Indian Affairs
United States Senate
February 25, 2004

Mr. Chairman and Members of the Committee, it is a pleasure to be here today on behalf of Secretary of Energy Abraham to discuss the Department of Energy's (DOE) Fiscal Year (FY) 2005 Budget with respect to Native American Programs.

The Secretary asked me to convey his regrets for not being able to join you today. As the Committee knows, this Secretary takes the Department's responsibility and commitment to American Indians seriously. He has made clear to DOE management in both Headquarters and the field the priority of tribal participation in the decision-making process, as well as the imperative to provide economic opportunities where possible. As you know, just two days ago, the Secretary led the first Tribal Leaders Summit in an effort to enhance effective communication and implementation of our government to government relationship with American Indian and Alaska Native Tribal governments. I was happy to be a part of that summit to discuss opportunities available through the DOE Office of Energy Efficiency and Renewable Energy.

Today's Department of Energy has as its mission to maintain the strength and viability of the nuclear weapons stockpile in the absence of underground testing, accelerate environmental cleanup, establish a permanent geologic repository, promote energy security, reduce the Nation's dependence on imported energy sources, and expand the commitment to prevent the spread of weapons of mass destruction. To support that mission, DOE operates 24 preeminent research laboratories and facilities and four power marketing administrations, and manages the environmental cleanup from 50 years of nuclear defense activities at 114 sites that impacted two million acres in communities across the country. The Department of Energy holds 2.4 million acres of land, has an annual budget of about $23 billion, and employs about 14,500 Federal and 100,000 contractor employees.

The breadth of DOE programs and operations provides both an obligation and an opportunity for DOE – an obligation to include American Indian and Alaska Native tribes in its decision-making processes and an opportunity to improve their quality of life through business opportunities and participation in our energy research and development programs.

One example of the Secretary's commitment to Native Americans is the establishment of Points of Contact for American Indian issues in each DOE program to help coordinate American Indian initiatives. Each Point of Contact serves as the liaison between their respective program offices and tribal governments in fostering government-

to-government relationships. This direct contact is critical to successful navigation through the myriad of programs, offices and sites operated by the Department of Energy. Another is the recent transfer of a substantial tract of land at Los Alamos, New Mexico, no longer needed for national security purposes, to the Pueblo Indians of San Ildefonso to use for traditional tribal and cultural practices.

The Department first formulated the American Indian and Alaska Native Government Policy almost a dozen years ago, and Secretary Abraham reaffirmed that policy during his first year as Secretary of Energy. The Secretary understands the dynamic relationship that exists between Indian Tribes and the Federal Government, and he appreciates the flexibility needed to accommodate the unique needs of our Tribes.

The following principles form the basis of the Department of Energy American Indian and Alaska Native Policy:

1. DOE recognizes the Federal trust relationship and will fulfill its trust responsibilities to American Indians and Alaska Native Nations.
2. DOE recognizes and commits to a government-to-government relationship and will institute appropriate protocols and procedures for program and policy implementation.
3. DOE will establish mechanisms for outreach, notice and consultation and ensure integration of Indian nations into decision-making processes.
4. DOE-wide compliance with applicable Federal cultural resource protection and other laws and executive orders will assist in preservation and protection of historic and cultural sites and traditional religious practices.
5. DOE will initiate a coordinated Department-wide effort for technical assistance, business and economic self-determination development opportunities, education and training programs.
6. The Secretary of Energy will conduct an annual Tribal Leaders summit for performance review of policy implementation and issue resolution.
7. DOE will work with other Federal agencies, and state agencies, that have related responsibilities and relationships to our respective organizations as they relate to tribal matters.

My testimony today will demonstrate how various DOE offices are faithfully implementing the principles of the DOE Native American and Alaska Native policy.

OFFICE OF ENERGY EFFICIENCY AND RENEWABLE ENERGY

One of the reasons the Secretary asked me to pinch hit for him today is because as Assistant Secretary for Energy Efficiency and Renewable Energy, I oversee one of the larger DOE programs focused on Indian Tribes -- the Tribal Energy Program. The Tribal Energy Program (authorized through Title XXVI of the Energy Policy Act of 1992) is part of our larger effort to promote and deploy clean energy technologies and energy efficient products and help match new energy technologies to markets for energy products and services, based on the needs and choices of State agencies, Tribal

governments, and others responsible for determining local needs. The FY 2005 budget request for the Tribal Energy Program is $5.5 million, a $600,000 increase over the FY 2004 appropriation.

The Tribal Energy program promotes tribal energy self-sufficiency and fosters employment and economic development on America's tribal lands through the use and application of renewable energy and energy efficiency technologies. The program offers technical assistance and competitive financial awards for renewable energy feasibility studies and shares the cost of renewable energy projects on tribal lands. The program also offers competitive financial assistance to tribes for the initial steps toward developing renewable energy and energy efficiency projects, including strategic planning, energy options analysis, human capacity building and organizational development planning.

The Tribal Energy Program holds great potential for serving both the Department's mission and the Native American community. While Indian land comprises five percent of the land area of the United States it contains an estimated ten percent of all energy resources in the United States. Moreover, tribal lands possess some of the best renewable energy resources in the country. Because most tribal lands are remote and sparsely populated, they are also considered to be good sites for testing the market potential of dispersed energy sources such as renewable energy. And renewable energy projects are considered particularly appropriate on Indian lands because they are generally environmentally benign and harmonize well with nature.

The potential is significant -- we estimate, for example, that wind resources in the Great Plains could meet 75 percent of the electricity demand in the contiguous 48 states. And the need is great -- Indian households on reservations are disproportionately without electricity. A total of 14.2 percent of Indian households have no access to electricity, as compared to only 1.4 percent of all U.S. households. The Navaho Nation alone accounts for 75 percent of the households without electricity.

Over the last ten years, the Tribal Energy Program, and its predecessor programs, has provided $17 million in funds for 90 renewable energy projects across Indian Country. With $3 million contributed by tribes, the combined investment of over $20 million shows a clear interest and commitment by the Department and Tribes to develop renewable energy. Over the last two years, the Program has entered into agreements with 38 tribes and provided $7.5 million to tribes to explore and pursue renewable energy options. During this period, the Program has awarded 91 percent of all funds directly to tribes. The remaining funds (9 percent) have been used to provide technical assistance, information resources and education to tribes and future tribal leaders.

DOE, in partnership with Tribal governments, has served Tribal communities in many ways through this program. These include:

- Installation of the first utility-scale turbine on tribal lands in the contiguous U.S. (Rosebud Sioux 750 kW turbine installed February 2003);

- Development of a renewable energy curriculum at the Southwestern Indian Polytechnic Institute based on hands-on learning using a solar electric and wind systems installed at the New Mexico campus;

- The Colville Confederated Tribes in Washington State installed a substation at their veneer plant that is projected to reduce line losses and save the Tribe between $160,000 and $260,000 per year;

- Twenty-six solar electric systems (43 kW) were installed on Native American homes and tribal buildings, some previously without any electricity;

- The Mandan, Arikara and Hidatsa Tribes in North Dakota and the Assiniboine and Sioux Tribes in Montana are installing 710 kW of wind energy;

- The Northern Cheyenne, Makah Nation, and Rosebud Sioux Tribes are proceeding toward large-scale wind development with the near-term potential of an additional 90 MW of installed wind energy in Indian Country;

A particularly notable project is the recently installed 750 kW turbine on the Rosebud Sioux Indian Reservation that was able to obtain a USDA Rural Utility Service loan for commercial wind development. Using lessons learned from this project, the Intertribal Council on Utility Policy is pursuing tribally owned wind development in the Great Plains. With the tremendous wind resource potential in the Great Plains, this project may provide new tribal jobs and improve the living conditions for tribal members. Moreover, this power will assist Tribes and our Country to become more energy independent.

Education is an important component of the Tribal Energy Program. In collaboration with the Council of Energy Resources Tribes (CERT), the Program is conducting ten regional tribal workshops this year in an effort to provide Tribal Leaders with the information to make informed energy choices. The Tribal Energy Program is offering a week long "Teach-the-Teachers" workshop for Tribal College educators and energy planners along with a student internship program. The Southwestern Indian Polytechnic Institute in Albuquerque recently offered and completed the two semesters of renewable energy undergraduate courses including hands-on experience for Native American students. The students not only learned the technology behind renewable energy systems but also helped install them on the school's campus. These new solar and wind systems will be used now for power generation and experiential learning for future students. Working with the White House Initiative on Tribal Colleges and Universities, we hope to replicate this and similar courses at other Tribal Colleges and Universities.

The good news is that with less funding available for many government programs, funding for the Tribal Energy Program doubled in FY 2003 to $6 million, providing opportunities for 24 tribes across the Nation to assess their resources and develop long-term energy plans. I want to point out that these and previous projects were selected

based on competitive solicitations designed to assure that the best and strongest projects are selected and have the best opportunity for success. I am concerned with recent trends toward increased Congressional earmarking of specific recipients for specific projects. This results in fewer and fewer dollars available for competitive award, and no assurance that the funded projects are in the best interest of Indian Tribes.

Of the $5 million FY 2004 appropriation for the Tribal Energy program, two thirds, or $3.3 million, is earmarked for three specific projects. As a result, only $1.7 million is available for program activities. I know that many Tribes are in town this week and that they are visiting their Members of Congress. I want to urge the Committee, as I urged the Tribes early this week, to be supportive of the competitive solicitation process that assures not only fairness among the Tribes, but gives both the Tribes and the taxpayer assurance that tax dollars are used to support projects with the greatest potential.

In addition to the Tribal Energy Program, EERE provides assistance to Indian Tribes through its Weatherization Assistance Grant program which helps low income people reduce their energy costs by providing cost-effective energy efficiency improvements to their homes. In FY 2005, $370,000 is requested to be provided to the Navaho Nation and $114,000 to the Inter-Tribal Council of Arizona Tribes for weatherization assistance. Twenty four other Tribes will share in an estimated $291,200 that is distributed according to an allocation formula determined by the States.

Through its Solar Energy Program, EERE has also followed Congressional direction to help the Navajo Nation provide electrical services to members living in remote areas through line extensions and solar electric systems. The Navajo Nation, with an estimated 18,000 members still without access to electricity, has, with financial and technical support from DOE, provided basic electric services to 700 homes on the reservation thus far. Also, Native American Photovoltaics completed 20 solar electric installations on remote Navajo residences in the Dilkon and Teesto Chapters of the Navajo Nation, providing basic electric services to those previously without access to electricity. While the project has been beneficial to the Navajo Nation, the Department remains concerned that the Congressionally directed project does not align well with its mission or contribute to its strategic goals, which is why the Department each year does not request funding to continue the project.

OFFICE OF ENVIRONMENTAL MANAGEMENT (EM)

EM works directly with tribes on a government-to-government basis to address Tribal impacts and concerns. The goal of the EM program is to accelerate risk reduction and cleanup at former nuclear weapons sites while protecting the health and safety of the public and the environment. Several former nuclear weapons complex sites are in close proximity or next to tribal nations and impact Indian lands and/or resources to varying degrees. In addition, various transportation activities may impact some tribes' emergency response ability because several transportation corridors are located near or through tribal lands.

The involvement of tribes in accelerated risk reduction and cleanup activities at EM sites is intended to foster greater trust and productive interaction between tribes and DOE while promoting the protection of treaty rights and trust resources. The Department's process allows for early and meaningful participation by the tribes, and provides them basic financial and staff support. EM field personnel and contractors involve tribes in various day-to-day operations and incorporate tribal perspectives. Open and honest communication and consultation are key in fostering a productive and respectful relationship between the DOE and the tribes.

EM's support for tribal efforts total $6 million in FY 2004. There are cooperative agreements with tribes exist at the following DOE sites: Albuquerque (Pueblo of Jemez, Pueblo of San Ildefonso, Pueblo of Cochiti, Pueblo of Santa Clara), Idaho (Shoshone-Bannock Tribes, Pyramid Lake Paiute Tribe), Carlsbad (Pueblo of Acoma, Pueblo of Laguna, Pueblo of Nambe, Pueblo of Pojoaque, Pueblo of Tesuque) Richland (Yakama Nation, Nez Perce Tribe, Confederated Tribes of the Umatilla Indian Reservation) and West Valley (Seneca Nation of Indians). This support, through cooperative agreements, has built tribal capacity in the environmental sciences and transportation emergency preparedness and response areas through the establishment of tribal environmental program offices.

Tribes assist DOE in complying with environmental and cultural protection laws to avoid delays in cleanup activities, solving environmental problems while protecting the health of workers and community members, implementing the National Environmental Policy Act process at Environmental Management sites, and obtaining environmental data through sampling and monitoring. As a result, tribes directly participate in cleanup decisions and program planning on a government-to-government basis, better protect treaty and other tribal rights and interests, including health, natural and cultural resources, educate tribal members about DOE activities, and educate DOE staff and policymakers about tribal rights and cultural sensitivity.

OTHER DOE PROGRAMS

Office of Economic Diversity and Impact (ED)

Under ED, the Office of Small and Disadvantaged Business Utilization is a crosscutting DOE organization that is focused on helping small businesses -- including Native American Indian businesses -- enhance their opportunities to do business with the Department of Energy. Educational efforts help small businesses better understand the Federal procurement process in general and DOE procurement process in particular, and direct small businesses to different sources of assistance essential to their success in joining Federal market.

As a result of these efforts, and Secretary Abraham's direction to DOE offices to expand contracting opportunities with small and disadvantaged businesses, an Alaskan Native firm (ASRC Constructors Inc., Barrow, Alaska) was recently awarded a $26 million small business set-aside contract to participate in the Strategic Petroleum Reserve

(SPR) Project's billion-dollar Management & Operating (M&O) contract. The award -- made as an 8(a) set-aside -- is the first M&O agreement targeted by DOE to unbundle contracts in order to increase small business prime contracts. The $26 million contract has a two-year term with three one-year options that could increase its total value to more than $60 million.

Also under ED, the Bank Deposit Financial Assistance Program provides a source of operating capital for women and minority owned financial institutions, including Native American tribes. It is the largest program of its kind in the Federal government providing more than $256 million in deposits to participating financial institutions. Funds used to support the Program are derived from DOE's enforcement actions against violators of the Emergency Petroleum Allocations Act of 1973 and the Economic Stabilization Act of 1970.

The program's goal is to enhance the viability of minority financial institutions as business enterprises, and serve the economic and development needs of local communities by encouraging financial institutions to provide loans to businesses in 28 states, Puerto Rico, and the District of Columbia. There are currently four Native American-owned financial institutions that partner with DOE as "Trustee" institutions: Native American Bank (formerly Blackfeet National Bank), Browning, Montana; Bank 2 (Chickasaw Nation) Oklahoma City, Oklahoma; Bank of Cherokee County (Cherokee Nation) Hulbert, Oklahoma; and the newly-named Fort Gibson State Bank, owned by the Cherokee Nation of Eastern Oklahoma. This program provides excellent opportunities to promote and/or encourage other Native American tribes to establish banks and financial institutions.

Office of Science

The DOE Office of Science provides assistance to Indian Tribes and Alaska Natives through its Atmospheric Radiation Measurement program. In FY 2005, $700,000 will be provided to the North Slope of Alaska for educational outreach and technical support at the ARM Alaska site. The educational activities directly support the North Slope Borough School District. In addition, site operations for the Southern Great Plains site, an expected $2.0 million in FY 2005, is provided through Aeromet Corporation, a Native American-owned corporation.

Office of Nuclear Energy, Science and Technology

The Department's FY 2005 budget request includes $650,000 for activities involving the Shoshone-Bannock Tribe in Idaho. These activities, conducted by the tribe, include air quality monitoring, environmental sampling, protecting cultural resources, and emergency management and response. The funding also allows the tribe to attend and participate in Tribal Working Groups, DOE's Idaho Environmental Management Citizens Advisory Board, the State and Tribal Government Working Group, and the Natural Resources Trustees Council.

Office of Civilian Radioactive Waste Management

The Office of Civilian Radioactive Waste Management maintains a Native American Interaction Program through which it consults with Native American Tribes near the repository at Yucca Mountain, mainly on issues associated with cultural resources. The Office has committed to consult with potentially impacted Federally recognized tribal governments that are as it moves forward to develop the planning for transportation of nuclear waste to the repository. FY 2005 funding for these efforts is $500,000.

Mr. Chairman, I hope my testimony today effectively illustrates the breadth and depth of the Department of Energy's commitment to Native American Tribal relations as evidenced in its FY 2005 budget request. This completes my prepared statement and I am happy to answer any questions.

U.S. Department of Energy - Energy Efficiency and Renewable Energy
Office of EERE

Biography of David Garman
Assistant Secretary
Energy Efficiency and Renewable Energy
Department of Energy

David Garman was nominated by President George W. Bush to serve as Assistant Secretary on April 30, 2001 and was confirmed unanimously by the United States Senate on May 25, 2001. He assumed the position after being sworn in by Secretary Abraham on May 31, 2001.

Assistant Secretary Garman previously served in a variety of positions on the staff of two U.S. Senators and two Senate Committees during a career spanning nearly 21 years. Most recently, Mr. Garman served as Chief of Staff to Alaska Senator Frank H. Murkowski. Mr. Garman also served on the professional staff of the Senate Energy and Natural Resources Committee and the Senate Select Committee on Intelligence.

Throughout his career, Mr. Garman's work has focused mainly on energy and the environment. For example, while serving on the Senate Select Committee on Intelligence, Mr. Garman worked in the newly emerging area of "environmental intelligence and security," working on issues such as global climate change, transboundary pollution, and regional environmental threats from the Former Soviet Union. While on the staff of the Energy and Natural Resources Committee, Mr. Garman's portfolio included energy research and development, science and technology, and global climate change.

Mr. Garman also served as a U.S. Senate observer at virtually all of the major negotiations under the United Nations Framework Convention on Climate Change from 1995-2000.

Mr. Garman holds a Bachelor of Arts from Duke University, and a Master of Science in Environmental Sciences from the Johns Hopkins University.

Department of Energy
Washington, DC 20585

May 18, 2004

The Honorable Ben Nighthorse Campbell
Chairman
Committee on Indian Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

On February 25, 2004, David Garman, Assistant Secretary, Energy Efficiency and Renewable Energy, testified regarding the President's Fiscal Year 2005 Budget Request for Indian Programs.

Enclosed are the answers to four questions submitted by you and Vice Chairman Daniel K. Inouye to complete the hearing record.

If we can be of further assistance, please have your staff contact our Congressional Hearing Coordinator, Lillian Owen, at (202) 586-2031.

Sincerely,

Rick A. Dearborn
Assistant Secretary
Congressional and Intergovernmental Affairs

Enclosures

Printed with soy ink on recycled paper

QUESTIONS FROM CHAIRMAN CAMPBELL

NON-RENEWABLE RESOURCES

Q1. Testimony is about Renewable Energy only. I appreciate that your office deals with renewable energy but I live in what is known as the Natural Gas Patch. What about those tribes that have an abundance of oil and gas and other NON-RENEWABLE resources? Does your office assist those tribes as well or are they left out in the cold, so to speak?

A1. The Department of Energy's (DOE) Native American Initiative Program in the Office of Natural Gas and Petroleum Technology is designed to help Tribes develop and manage their energy resources in an environmentally sound manner by participating in joint exploration and production efforts with the oil industry.

The Program currently is supporting five projects in oil and natural gas exploration, development, environmental protection and/or refining on Native American lands. These were fully funded in 2003. These projects are on 5 different reservations - Osage, Ute Mountain Ute, Jicarilla Apache, Fort Berthold, and Northern Cheyenne. These projects were selected through competitive solicitations that asked for applications of new technologies to increase hydrocarbon reserves/production and promote economic development in an environmentally friendly manner.

More than $260 million in economic activity on tribal lands and over $40 million in direct tribal royalty payments are expected to result from previous and current program projects over the next 20 years. To date, there have been 22 Native American projects on 12 reservations throughout the western United States and Alaska.

Q2. Interagency efforts with DOI. Does your office, or the Energy Department itself, work with the Interior Department and Indian Tribes on identifying energy development opportunities and bringing those projects to market? If, so which projects have you helped get off the ground in the last 3 years?

A2. The Department of Energy's (DOE) Tribal Energy program does work with the Department of Interior (DOI) and Indian Tribes to facilitate energy resource development in Indian Country.

Specifically, DOI collaborates with DOE, the Department of Justice (DOJ), the Environmental Protection Agency (EPA), and the Department of Agriculture/ Rural Utilities Service (USDA/RUS) in a multi-agency Environmental Justice (EJ) effort. This effort promotes economic development on Tribal lands that have suffered degradation from prior Federal use. A 750-kilowatt wind turbine installed at the Rosebud Sioux Reservation in South Dakota was our first competitively-selected EJ project. The Rosebud turbine was jointly funded through a competitive grant from DOE's Tribal Energy Program and a loan from the USDA/RUS.

The 750-kilowatt wind turbine is a precursor to a larger 80-megawatt installation anticipated for that region. The Rosebud turbine powers a Tribal facility and any excess power generated is sold to the local Air Force base. The lessons learned from this project are now being shared with other Tribes that are considering the installation of wind turbines.

Additionally, the Department's Tribal Energy program has 38 competitively-selected Tribal energy projects underway that have commenced in the last three Fiscal Years. These include 5 development projects in which renewable energy hardware will be installed to provide power to Tribal members; 24 feasibility studies to determine the viability of potential renewable energy projects on Tribal lands; and 9 "first steps" projects which address such Tribal energy resource development needs as strategic energy planning, energy options analysis, and human capacity building.

Q3a. Does the Department of Energy have an opinion on the Indian title of the current Energy Bill?

A3a. While the Administration has not taken an official position regarding S. 2095, Secretary Abraham, in his letter to Conferees on H.R.6, did indicate that the Administration continues to support provisions consistent with the President's National Energy Policy and the Administration's proposed regulations to increase production of traditional energy resources on Indian lands. The Administration similarly supports the inclusion of important incentives to spur production of alternative and renewable sources of energy such as wind, solar, biomass, hydropower, and geothermal resources. These incentives, coupled with the bill's authorities for energy research and development, will accelerate technological advances and diversify the Nation's energy supply.

DOE defers to the Department of Interior on development of tribal energy resource agreements as provided by the proposed bill.

Additionally, the Department has provided to Congress its general objection to provisions contained in energy legislation that would, by statute, establish new positions and new subordinate organizational elements within the Department. The Department views such provisions as an impairment of Secretarial authority to determine how to organize and assign work within the Department. Such provisions could additionally contribute to the balkanization of the Department's internal structure.

NON-RENEWABLE RESOURCES

Q3b. What does DOE foresee for the development of energy resources in Indian Country over the next 20 years?

A3b. According to the Bureau of Indian Affairs ("The Oil and Gas Opportunity on Indian Lands: Exploration, Policy and Procedures," 1994), Native American reservations contain significant oil and natural gas reserves: 5.6 trillion cubic feet of natural gas and 890 million barrels oil & natural gas liquids.

The Department's Energy Information Administration long-term (through 2025) analysis predicts that production from domestic natural gas resources will increase about 40 percent as demand grows. Much of the increase is expected to be met from unconventional resources, located primarily in the Rocky Mountain region, which includes many Native American lands. Although total domestic oil production is projected to decline by 2025, production from new reservoirs and fields, including those on Indian land, will be needed far into the future.

QUESTION FROM VICE CHAIRMAN INOUYE

Q1. The President's Budget Request for Fiscal Year 2005 for intergovernmental activities of the Energy Supply Program is $16 million. Part of this program funds the Tribal Energy program which helps Native Americans develop renewable energy resources on their lands. What support does the President's Budget Request provide for this vital program?

A1. The President's Fiscal Year 2005 budget request for Tribal Energy activities is $5.5 million, an increase of $0.6 million over the level provided in Fiscal Year 2004. Plans for Fiscal Year 2005 include providing direct technical assistance to Tribes for five development workshops, five economic development projects, fifteen "first-step" efforts, and fifteen feasibility studies, working toward the goal of 100 MW of renewable power generation in Indian Country by 2010. The program will continue to provide educational opportunities, information dissemination, and coordination with other Federal efforts to assist Indian Country. Additional Federal technical support to Tribes includes energy strategic planning, energy options analysis, capacity building and organizational development.

Department of Justice

STATEMENT

OF

TRACY HENKE
DEPUTY ASSOCIATE ATTORNEY GENERAL

BEFORE THE

COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

CONCERNING

ADMINISTRATION'S PROPOSED FY 2005 BUDGET FOR INDIAN PROGRAMS

PRESENTED ON

FEBRUARY 25, 2004

Chairman Campbell, Vice-Chairman Inouye, and Members of the Committee: The Department of Justice appreciates the opportunity to submit this statement to the Committee to discuss the Justice Department's proposed Fiscal Year 2005 budget priorities for Indian Country. As the Committee is aware, and as we at the Justice Department are aware, the needs of Indian tribal governments in combating crime and violence continue to be great. As the Department stated to this Committee last year, the President and the Attorney General remain committed to addressing the most serious law enforcement problems in Indian Country, including substance abuse, domestic violence, and other violent crimes, and to ensuring that federally recognized Indian tribes are full partners in this effort.

The Justice Department's Office of Justice Programs (OJP) and Office on Violence Against Women (OVW) continue to be the Department's primary resource for funding and other assistance in Indian Country. Through OJP and its component bureaus, and OVW, the Department identifies emerging criminal and juvenile justice system issues, develops new ideas and tests promising approaches, evaluates program results, collects statistics, and disseminates these findings and other information to federal, state, and local units of government, tribal communities, and criminal justice professionals. DOJ works to prevent and control crime and help crime victims by providing funding to and assisting state and local governments, federally recognized Indian tribes, law enforcement, prosecutors, courts, corrections, and other service providers. OJP and OVW continue their specific support to federally recognized Indian tribes and Native Alaskan Villages and Corporations by providing grants to support innovative approaches to breaking the cycle of drugs, delinquency, crime and violence, and through technical assistance and training to provide tribal leaders with the knowledge and skills required

to address these issues.

Many of the Committee members are aware of OJP's efforts with the Comprehensive Indian Resources for Community and Law Enforcement, or CIRCLE, Project. As was discussed with this Committee in the past, the CIRCLE Project recognizes that the most effective solutions to the problems experienced by tribal communities come from the tribes themselves. The three tribes that participate in the CIRCLE Project have each undertaken efforts to combat crime and violence. These tribes designed their own strategies, while the Department provided support through direct funding, training, and technical assistance.

With the conclusion of another fiscal year we continue to see results from the three CIRCLE Project tribes. OJP is hopeful that the lessons obtained through the CIRCLE Project will be taken as both examples and possible roadmaps for other tribes to follow as they attempt to deal with their own unique needs and requirements. The Department's National Institute of Justice (NIJ) is funding an evaluation of the CIRCLE Project, and we expect the first phase of this evaluation to be completed this year. The evaluation will provide insight on the progress and success of the strategies used by the participating tribes.

In addition to the ongoing efforts of the CIRCLE project, OJP has been instrumental in building state-tribal relations in the law enforcement and justice communities. For instance, partnering with the International Association of Chiefs of Police and its Indian Country Law Enforcement Section, OJP is sponsoring four regional meetings to enhance state-tribal relationships and highlight promising tribal-state efforts throughout the nation. Two meetings that have already occurred (the California Tribal and State Law Enforcement Summit in 2002, and the Law Enforcement and Judicial Collaboration Symposium, "Improving Safety in the Four

Corners," in 2003) focused on law enforcement and judicial collaboration affecting jurisdictional issues at arrest, prosecution, and adjudication. Efforts are currently underway to plan for two additional meetings – one in the Great Plains, and the other in the Northwest.

The Administration's continued commitment to federally recognized American Indian communities is reflected in the President's Fiscal Year 2005 request of $49 million for tribal programs, part of the Department's overall effort to assist tribal governments in addressing criminal justice issues in Indian country. This plan will allow us to continue most of our tribal programs near Fiscal Year 2004 levels.

As the Committee is aware, many of OJP's tribal programs focus on alcohol and drug abuse, which continue to be major problems in Indian country. OJP's Bureau of Justice Assistance (BJA) has awarded grants for the Indian Alcohol and Substance Abuse Demonstration Program, an effort to improve the enforcement of alcohol and drug laws in tribal lands and provide treatment and other services to American Indian or Alaskan Native offenders with substance abuse problems. Under this initiative, recipients are focusing on law enforcement, services, or both. For Fiscal Year 2005, the President requested $4.2 million to continue this effort.

BJA will also address the issue of drug abuse in Indian country through continued assistance to Indian communities under its Drug Courts Program, which provides funds for local drug courts that provide specialized treatment and rehabilitation for non-violent substance abusing offenders. While this is not solely a tribal program, OJP has always ensured that tribal governments were included as Drug Court grantees. We anticipate that federally recognized Indian tribes and Native Alaskan Villages and Corporations will continue to apply for drug court

funding again this year and that they will be well-represented among new grantees. For Fiscal Year 2004, the Department received $36.5 million for the overall Drug Courts Program, and for Fiscal Year 2005 we have requested $67.5 million.

Further, Mr. Chairman, it continues to be a sad fact that American Indian and Alaskan Native women still suffer disproportionately from domestic violence and sexual assault. Since 1994, the Department's Office on Violence Against Women (OVW) has administered the STOP Violence Against Indian Women Discretionary Grants Program, which support tribes' efforts to investigate and prosecute violent crimes against women and to strengthen services for victims of these crimes. During Fiscal Year 2003, OVW awarded grants totaling over $6.8 million under this program. In Fiscal Year 2004, we received $8 million for this effort. For Fiscal Year 2005, the Department has requested $8.8 million.

For Fiscal Year 2003, OVW awarded grants totaling $2.1 million under the Tribal Domestic Violence and Sexual Assault Grant Program. For Fiscal Year 2004, we received $3 million for this effort, and have requested a similar amount for FY05.

For Fiscal Year 2005, the Department is requesting a total of $19.8 million for all of our tribal Violence Against Women Act programs. This is a $1.3 million increase over the Fiscal Year 2004 funding levels.

Similarly, OJP's Office for Victims of Crime (OVC) works with federally recognized Indian tribes to provide services for crime victims in areas that are often under-served. OVC provides direct support through its Victim Assistance in Indian Country Discretionary Grant Program. Tribal communities that receive these funds can use them for many different services, including emergency shelters, mental health counseling, and immediate crisis intervention. This

program is supported through the Crime Victims Fund, which comes from federal criminal fines, forfeited bail bonds, penalty fees, and special assessments. Further, and aside from funds that will become available through OVC's Crime Victim Fund, the Department has also allocated an additional $1.6 million specifically to support victim assistance programs in Indian country for Fiscal Year 2005.

OVC also administers grants under the Children's Justice Act to improve the investigation, prosecution, and handling of child abuse cases in Indian country. Tribal communities nationwide have used these grants for activities such as training law enforcement and court staff on how to work with child abuse victims, and establishing protocols for handling these cases. We are requesting $3 million for this program in Fiscal Year 2005, which maintains the current funding level.

During Fiscal Year 2004, OJP is continuing to help American Indian and Alaskan Native youth through the Tribal Youth Program, which is administered by OJP's Office of Juvenile Justice and Delinquency Prevention (OJJDP). The Tribal Youth Program supports accountability-based sanctions, training for juvenile court judges, strengthening family bonds, substance abuse counseling, and other efforts to improve justice operations in Indian Country. Also, OJP will continue to dedicate funds to support tribal-related juvenile justice research activities. For Fiscal Year 2004, OJP received $9.9 million for this program. For Fiscal Year 2005, the President has requested $12.5 million to allow these efforts to continue.

In addition to focusing on specific offender or victim populations, tribes have expressed a need for overall improvement of their justice systems. Tribal justice systems have existed for hundreds of years, but lately their workload has grown markedly, while the available resources

have not. OJP has worked to help ease this burden through the Tribal Courts Assistance Program, which assists federally recognized tribes in the development, enhancement, and continuing operation of tribal judicial systems. It provides resources to help sustain safer and more peaceful tribal communities. For Fiscal Year 2005, we have requested $5.9 million.

For fiscal year 2005, the President's budget requests $20 million for the COPS office to address pressing needs in tribal law enforcement. These funds will be used for areas such as hiring or retaining officers, law enforcement training, basic issue equipment, emerging technologies, and police vehicles.

The COPS office, with its training partners, also has developed specialized, culturally relevant basic community policing training for agencies receiving grants from the COPS Office. To date, 149 tribal law enforcement agencies have received basic community policing training. The website address is: http://www.tribaltraining.com. Grantees can access training information and registration forms online.

Enhanced technology is another important tool to help federally recognized tribes enhance their law enforcement and criminal justice systems. In September 2002, OJP's Bureau of Justice Assistance (BJA) awarded $1.5 million to the National Center for Rural Law Enforcement (NCRLE) for the first phase of the Inter-tribal Integrated Justice Pilot Project, a part of OJP's Information Technology Initiative. In 2003, additional funds were provided to implement the second phase of the project. With this funding, NCRLE created integrated networks in 11 towns within the three pilot tribes, encompassing a total of 42 criminal justice agencies. NCRLE has installed 40 servers, 200 workstations, 42 network switches, 40 wireless bridges and antennas, over 200 network cable connections, and converted over 800 existing

workstations to access the new integrated networks. These new networks have allowed over 1100 tribal justice personnel to access the Internet, receive electronic mail, and access Internet-based resources for sharing justice data.

One of the many challenges that federally recognized Indian tribes and Native Alaskan Villages and Corporations face is collecting reliable data on arrests, victimizations, and other criminal justice-related issues. In 2001, OJP awarded a grant to the Justice Research and Statistics Association to create the Tribal Justice Statistics Assistance Center, which became operational late last month. The Center works with tribal justice agencies to develop and enhance their ability to generate and use criminal and civil justice statistics. It provides support specifically tailored to the tribal community requesting assistance. Among other activities, the Center offers federally recognized tribes training in the use of criminal justice data to help inform justice decision-making in Indian country.

Not only does improved data gathering help federally recognized tribes make better policy decisions, it also helps them to better share and receive information with the broader criminal justice community, as well as participate in national criminal justice data gathering efforts, such as the National Incident Based Reporting System (NIBRS), the Uniform Crime Reporting (UCR) program, and other data collections related to corrections, criminal victimization, court processing, and juvenile justice. In addition, the Center provides for tribal participation and access to national law enforcement data systems, such as the National Criminal Information Center (NCIC) and the National Protection Order File. Last year, the Center helped initiate the New Mexico Crime Data Project, a groundbreaking effort to enable tribal and state law enforcement to share electronic data related to DWI offenses.

For Fiscal Year 2004, we targeted $1.2 million in Bureau of Justice Statistics (BJS) funds for the Tribal Justice Statistics Assistance Center and other tribal-related statistics activities. For Fiscal Year 2005, we plan to dedicate a similar amount.

OJP's National Institute of Justice (NIJ) continues to provide assistance by engaging in a number of research efforts to better understand criminal and juvenile justice problems in Indian country and the many challenges tribal justice agencies face. This research is critical to helping us understand what approaches and techniques will best serve tribal governments as they work to improve conditions within their communities. In the past this research has produced valuable resources such as, *Policing on American Indian Reservations*, which was developed through a grant to the John F. Kennedy School of Government at Harvard University.

Mr. Chairman, so far I have outlined some of our broader efforts to work with federally recognized Indian tribes and Native Alaskan Villages and Corporations, but there is also a need for day-to-day assistance. In September 2000, with OJP support, the National Tribal Justice Resource Center opened its doors. Located in Boulder, Colorado, the Resource Center is operated by the National American Indian Court Judges Association and provides tribal justice systems with assistance that is comparable to that available to federal and state court systems. The Resource Center offers on-site training and technical assistance, a calendar of seminars and conferences, and a free searchable database of tribal court opinions. It also features a "justice system mentoring project," which partners a developing tribal court with a more experienced one. The Resource Center makes information available through a toll-free number (1-877/976-8572) and a comprehensive searchable Web site (**www.tribalresourcecenter.org**). OJP plans to continue our support of this project in Fiscal Year 2005.

In addition to the grant programs administered by the Department of Justice, we also strive to fulfill our statutory and trust responsibilities to Indian Country through the provision of direct services. These services are not generally represented in a specific Indian country line item, but are included in the general litigation activities of the Department.

For example, the Office of Tribal Justice (OTJ) provides a single point of contact within the Justice Department for meeting the broad and complex federal responsibilities to federally recognized Indian tribes. Currently, all of the OTJ professional staff are tribal members, many of whom have lived and worked in Indian Country. As the Department's primary liaison with tribal governments, OTJ staff travel to Indian reservations and communities and serve as a point of coordination, repository of both legal and practical knowledge, and information about Indian country for the Department.

Finally, one of the most important duties of the Department is the prosecution of federal crimes in Indian country. The Major Crimes Act (18 U.S.C. § 1153) and other statutes create federal criminal jurisdiction over most felonies committed on tribal lands in over 20 federal judicial districts. There are over 550 federally recognized Indian tribes in the United States who, together, control about 56 million acres of land and have a tribal membership population of about 2 million people. Moreover, as this Committee is well aware, American Indians suffer the highest rates of violent crime victimization in the United States. Federal felony criminal jurisdiction in Indian country is usually exclusive; this is because tribal court jurisdiction is limited to misdemeanors (25 U.S.C. § 1302(7)) and in most districts, state jurisdiction arises only in certain limited circumstances.

Responsibility for prosecuting federal cases in Indian country falls on the U.S. Attorney's

Offices. The U.S. Attorneys work with through local task forces to address the needs of Indian country law enforcement on pressing issues such as gang violence, drug and gun crimes. In Fiscal Year 2003, the U.S. Attorney's offices filed 679 cases pertaining to violent crime in Indian country. These offenses included homicides, rapes, aggravated assaults, and child sexual abuse. Prosecuting crimes in Indian country is estimated to cost $19 million and 145 work years during the 2004 and 2005 fiscal years.

The Attorney General's Advisory Committee - Native American Issues Subcommittee (NAIS), consists of 26 United States Attorneys who have significant amounts of Indian country in their respective districts. The NAIS as a group is also actively working to ensure that the law enforcement needs of Indian country are met. In May 2002, the NAIS set forth it's current priorities which are: 1) terrorism (including international border issues and protection of critical infrastructure), 2) violent crime (including drugs, guns, domestic violence, child abuse, and sexual abuse), 3) crime involving gaming and other tribal enterprises, 4) white collar crime, and 5) resolution of jurisdictional disputes. Since setting these priorities, the NAIS met in February of 2003 to address terrorism and homeland security issues; in May of 2003 to deal with problems related to gang, drug and gun crime in Indian country; and in September of 2003 to discuss the integrity of Indian gaming. The topic for the next meeting, scheduled for this spring, is enhancing the quality of law enforcement in Indian country and clarifying and simplifying criminal jurisdiction.

Mr. Chairman, Attorney General Ashcroft has pledged to honor our Federal trust responsibility and to work with sovereign Indian Nations on a government-to-government basis. The Attorney General and the entire Justice Department will honor this commitment and

continue to assist tribal justice systems in their effort to promote safe communities. We also recognize that the most effective solutions to the problems facing tribes come from the tribes themselves, and that our role is to help them develop and implement their own law enforcement and criminal justice strategies. We are confident that our current activities and our Fiscal Year 2005 proposed budget reflect these priorities. This concludes my statement Mr. Chairman. I would welcome the opportunity to answer any questions you or Members of the Committee may have.

OJP Tribal Programs Budget Activity
[Source: Office of Justice Programs, Office of Budget and Management Services]

Program Name	FY 2004 President's Request	FY 2004 Enacted*	FY 2005 President's Request
Tribal Courts Program a/	$5,921,000	$7,579,431	$5,921,000
Tribal Youth Program	$12,500,000	$9,894,774	$12,500,000
Indian Alcohol/Substance Abuse Program	$4,436,000	$4,737,144	$4,240,000
Tribal Corrections Program (Prison Construction)	---	$1,894,858	----
Tribal Criminal Justice Statistics b/	$1,200,000	$1,200,000	$1,500,000
OVC Children's Justice Act-Tribal Partnerships	$3,000,000	$3,000,000	$3,000,000
OVC Victim Assistance in Indian Country c/	$1,600,000	$1,600,000	$1,600,000
STOP Violence Against Indian Women Program	$8,979,950	$8,032,341	$8,837,350
Tribal DV/SA Coalition Program	$3,325,907	$2,974,941	$3,273,093
Rural DV & Child Victimization Grant Program	$1,898,550	$1,893,637	$1,913,700
Grants to Encourage Arrest Policies & Enforcement of Protection Orders	$3,131,850	$3,077,870	$3,123,950
Legal Assistance for Victim of DV, SA, and Stalking	$1,901,300	$1,896,261	$1,993,550
Safe Haven Program (Supervised Visitation)	$716,050	$711,122	$703,900
Native American Pass-Through Requirement (OJJDP: Part B) d/	$398,000	$398,000	$398,000
TOTAL	**49,008,607**	**$48,890,379**	**$49,004,543**

Includes a .465% and .59% rescission.

a/ This program is included under the Edward Byrne Memorial Justice Assistance Grant Program in FY 2005.

b/ Funds provided are based on BJS Director's discretion. Actual funds provided will not be determined until the end of the fiscal year.

c/ Funds provided are based on OVC Director's discretion. Actual funds provided will not be determined until the end of the fiscal year.

d/ Funds provided are based on a formula. Actual funds provided will not be determined until the end of the fiscal year.

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

April 30, 2004

The Honorable Ben Nighthorse Campbell
Chairman
Committee on Indian Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Attached are the responses to follow-up questions submitted to Ms. Tracy Henke, Deputy Associate Attorney General, U.S. Department of Justice, following the February 25, 2004, oversight hearing on "The President's Fiscal Year 2005 Budget Request for Indian Programs." Please do not hesitate to contact this office if we may be of further assistance.

Sincerely,

William E. Moschella
Assistant Attorney General

Attachment

cc: The Honorable Daniel K. Inouye
Vice Chairman

**DEPARTMENT OF JUSTICE RESPONSES TO
CHAIRMAN CAMPBELL'S QUESTIONS FOR THE RECORD
FROM OVERSIGHT HEARING ON
"THE PRESIDENT'S FISCAL YEAR 2005 BUDGET REQUEST FOR
INDIAN PROGRAMS"
SENATE INDIAN AFFAIRS COMMITTEE
February 25, 2004**

1. **CIRCLE PROJECT: I have heard nothing but positive comments about the CIRCLE Project from all sides. It certainly seems like a project that merits a close look at whether it should be duplicated.**

   Q. Does the Department of Justice have any plans to expand the project? If not, why?

   A. Due to limited Department of Justice resources, the Department currently does not plan to expand the project. However, through disseminating information on all aspects of the CIRCLE Project, outreach to tribal governments, and training, we hope to encourage tribes to initiate similar programs using other resources.

   Q. Is the Department committed to continuing to support the current project participants?

   A. The Department is committed to providing the same quality program management to the current participants that we offer all of our grantees. This includes guidance from a designated program manager and access to technical assistance where available.

2. **Tribal Courts/COPS Grants: I note that your budget requests for both Tribal Courts and the Tribal COPS grants are both even with the President's FY 2004 request, and below what we actually appropriated last year. I realize that the Federal budget [is] very tight this year, but these are critical items for Indian Country.**

   Q. In addition to budget support for these programs, I am always interested in new approaches that can be more efficiently and cost effective. Have you learned any lessons from the CIRCLE Projects that might lead to more effective overall law enforcement and community safety for Tribes?

   A. Our National Institute of Justice is sponsoring a long-term evaluation of the CIRCLE Project. We have some preliminary findings, although the evaluation will not be completed until next year. We also have feedback from a CIRCLE Project working group's evaluation subcommittee. Much of what was learned could be applied to improve overall law enforcement and community safety for tribes. Some examples include:

- Any new tribal law enforcement initiative should begin with a structured and intense period of assessment and planning. This period should be used to develop a strategy that takes into account the context and culture of the tribe. This strategy should include information sharing, training, and a thorough evaluation of the initiative.

- The federal government can help tribal law enforcement by continuing efforts to streamline and coordinate funding and other forms of assistance. Federal agencies should also continue efforts to improve communications with tribal law enforcement and tribal governments.

- These efforts should not be limited to law enforcement, but should also support tribes' longer-term efforts to become stronger, more resourceful communities.

- Tribal law enforcement should have access to culturally competent training and technical assistance. This process works best when the tribes determine their own needs and identify the appropriate providers.

3. **Drug Courts: You mentioned that the funding request for the Drug Courts Program is nearly doubled, to $67.5 million.**

   Q. How much of that funding is anticipated to go to Tribes?

   A. DOJ's Office of Justice Programs (OJP) has always ensured that tribal governments were included as Drug Court Program grantees, and we anticipate that federally recognized Indian tribes and Native American Villages and Corporations will continue to apply for Drug Court funding. Between Fiscal Year 1995 and Fiscal Year 2003, tribes received 148 awards, which included 84 grants that were dedicated solely to drug court planning. In FY 2003, four tribes received awards, totaling approximately $2 million in funding. OJP's Bureau of Justice Assistance (BJA) is currently in the process of evaluating applications submitted under the FY 2004 Drug Courts solicitations. Because the Drug Court grants are awarded based on a competitive application process, we cannot accurately predict what share of Fiscal Year 2005 funding would go to tribes.

   Tribal participation in the Drug Court program has undergone several changes over the years, as OJP has identified specific tribal needs and the challenges tribes face in implementation. Some of the grantees were not able to sustain their efforts, and where courts were established, they now appear to serve even smaller proportions of their drug-abusing criminal justice population. Moreover, most of the tribal applicants in the FY 2001 and 2002 solicitations ranked very poorly on peer reviews of the applications.

   For these reasons, in late 2003, BJA undertook an effort to review the current approaches and make recommendations on how the tribal drug court solicitation can be restructured to better serve the needs of tribal nations. Results of this review will be available later in FY 2004, and will be used to inform planning for the FY 2005 Drug Court funding. The

process is being overseen by the Drug Courts Training provider, the Native American Alliance Foundation, and coordinated through the OJP American Indian/Alaska Native Program Office.

We would also note that, in addition to funding through the Drug Court Program, tribes may also fund the courts through the Tribal Court Assistance Program.

4. **Problem with Domestic Violence Grants: There was apparently a glitch last year in authorization for the STOP grants to Native women domestic violence groups. These women provide invaluable services to their communities, while working on shoe-string budgets, and these grants of vitally important to them. This Committee worked closely with the Judiciary Committee to resolve the problem with authorization of those grants.**

Q. Has the question of authorization for those grants been satisfactorily answered?

A. No, the statutory amendment needed to clarify the eligibility for this program has not yet been enacted. The Violence Against Women Act of 2000 created a new grant program to support "the development and operation of nonprofit tribal domestic violence and sexual assault coalitions in Indian country." (42 U.S.C. 3796gg-1(b)(4).) However, the statute does not authorize the making of direct grants to coalitions, but to other specified entities including Indian tribal governments. The Department proposed an amendment to the statute to allow for grants to be given directly to the coalitions, but it has not yet been enacted. Specifically, it is included in the Department of Justice Appropriations Authorization Act (H.R. 3036) at section 224(c) and the Advancing Justice Through DNA Technology Act (Section 210 of H.R. 3214, and Section 209 of S. 1700 and S. 1828). The Department prefers the language in H.R. 3214, because it provides the clearest statutory authorization for the program and contains language which is parallel to the current statutory language for the Grants to State Sexual Assault and Domestic Violence Coalitions Program.

Q. I understand that $8 million was to go for those grants. Did the native women groups receive their funding for FY04?

A. The statutory allocation for this grant program under 42 U.S.C. 3796gg-1(b)(4) is 1/54 of the amount appropriated for Part T of the Omnibus Crime Control and Safe Streets Act of 1968 ("Grants to Combat Violent Crimes Against Women"). For the 2004 Fiscal Year, the amount is approximately $3 million. The application period for 2003 and 2004 funds combined closed on March 18. Per the statutory requirement, we will be awarding the funds to Indian tribal governments to support the tribal coalitions.

5. **Northern Cheyenne Detention Center. I have a question about reprogrammed funds in the correctional facilities additional funding allocation list, which was published by the Bureau of Justice Assistance (BJA) last year.**

Geri Small, Chairman of the Northern Cheyenne Tribe, contacted me about a youth correctional facility they have been trying to build in Montana. The tribe submitted a critical capital needs report to BJA, in hopes of qualifying for some of this additional funding. After the Tribe did not make the list, Chairman Small was informed by a BJA official that the funds were awarded to tribes "that have not had the same history of success in acquiring grants" as the Northern Cheyenne.

Q. What is the logic behind awarding funds in this manner? Aren't you essentially punishing tribes who are pro-active in seeking grants?

The statement referred to in the question was taken out of context and does not reflect the Department's position relative to awarding tribal funding. To the extent that reprogrammed funds are available, funding is distributed based on:

1) tribes' safety and security needs; and
2) how the tribes plan to use the funds, as described in their grant applications.

OJP and BJA are committed to administering grant programs in an even-handed manner. To the extent that some tribes lag behind, BJA has pursued outreach efforts to ensure access to solicitations and provide training and technical assistance to tribal projects.

STATEMENT OF MICHAEL LIU
Assistant Secretary
Public and Indian Housing
U.S. Department of Housing and Urban Development

BEFORE THE
UNITED STATES SENATE
COMMITTEE ON INDIAN AFFAIRS

February 25, 2004

INTRODUCTION

Mr. Chairman, Mr. Vice Chairman, and Members of the Committee, thank you for inviting me to provide comments on President Bush's fiscal year 2005 budget for HUD's Indian Housing and Community Development programs.

My name is Michael Liu, and I am the Assistant Secretary for Public and Indian Housing. I am responsible for the management, operation and oversight of HUD's Native American programs. These programs are available to over 562 federally-recognized Indian tribes. We serve these tribes directly, or through their tribally designated housing entities (TDHE), by providing grants and loan guarantees designed to support affordable housing, community and economic development activities. Our partners are diverse; they are located on Indian reservations, in Alaska Native Villages, in other traditional Indian areas, and most recently, on the Hawaiian Home Lands.

In addition to those duties, my jurisdiction encompasses the public housing program, which aids the nation's 3,000-plus public housing agencies in providing housing and housing-related assistance to low-income families.

It is a pleasure to again appear before you, and I would like to express my appreciation for your continuing efforts to improve the housing conditions of American Indian, Alaska Native and Native Hawaiian peoples. From HUD's perspective, much progress is being made. Tribes are taking advantage of new opportunities to improve the housing conditions of the Native American families residing on Indian reservations, on trust or restricted Indian lands and in Alaska Native Villages. This momentum needs to be sustained as we continue to work together toward creating a better living environment for these groups.

OVERVIEW

At the outset, let me reaffirm the Department of Housing and Urban Development's support for the principle of government-to-government relations with federally-recognized Indian tribes. HUD is committed to honoring this fundamental precept in our work with American Indians and Alaska Natives.

You may recall that when I testified before you two years ago, I emphasized that there appeared to be a backlog of funding not obligated or expended by tribes. My statement caused a bit of a stir, and I received many calls from tribal leaders challenging this assertion. As it turns out, we were both right. There were more funds in the pipeline, but there was not nearly as much as we first estimated. This occurred because of the delays inherent in reporting requirements and the absence of a centralized system to collect this data. Tribal leaders and the National American Indian Housing Council assisted our regional Offices of Native American Programs in updating the data, we entered it into our system, and I am now confident that the majority of tribes are obligating and spending their grants in an

expeditious manner. Our most recent reports, which are tracked and recorded by the Department's electronic Line of Credit Control System, show that 88 percent of all grant funds appropriated have been obligated to grantees.

I'll begin my presentation by going over the budget numbers, and then I'd like to discuss two issues that I believe are of interest to the Committee: the large credit authority balances in our loan funds and my concerns about them, and the recently completed formula allocation negotiated rulemaking.

BUDGET SYNOPSIS

For FY 2005, the President's budget proposes a total of $739 million dollars, specifically for Native American and Native Hawaiian housing in HUD. There is $647 million authorized under the Native American Housing Assistance and Self-Determination Acts (NAHASDA). Of that amount, approximately $640 million is for direct, formula allocations through the Indian Housing Block Grant Program. $1.85 million in credit subsidy, which will leverage $17.9 million in loan guarantee authority, is proposed for NAHASDA's Title VI Tribal Housing Activities Loan Guarantee Fund. $71.575 million is for grants under the Indian Community Development Block Grant Program, and $1 million in credit subsidy, which will provide $29 million in loan guarantee authority, is for the Section 184 Indian Housing Loan Guarantee Fund.

The Native Hawaiian community will receive, through the Department of Hawaiian Home Lands, $9.5 million for the Native Hawaiian Housing Block Grant Program, and $1 million for the Section 184A Native Hawaiian Home Loan Guarantee Fund, which will leverage approximately $37.4 million in loan guarantees.

There is a total of $5.4 million available for training and technical assistance to support these programs.

Finally, the Department requests a total of $6.5 million to support American Indian, Alaska Native and Native Hawaiian-oriented higher education institutions.

INDIAN HOUSING BLOCK GRANT PROGRAM (IHBG)

Adjustments within the Indian Housing Block Grant (IHBG) program account have been made to allow more funds to be available for direct tribal use. The FY 2005 budget includes $647 million for the IHBG program. As with last year's request, reducing set-asides results in an increase in IHBG grant dollars available to tribes. For example, last year there was $2.72 million set aside for the Working Capital Fund. This year, we are requesting that only $500,000 be put aside for this purpose.

HUD TRAINING AND TECHNICAL ASSISTANCE

Training and Technical Assistance remains a critical component of the IHBG program. The Training and Technical Assistance set-aside is $5 million, which has provided the initial training and technical assistance to most grantees, enabling them to function effectively under NAHASDA.

NAIHC TRAINING AND TECHNICAL ASSISTANCE

The President's Budget includes a $2.485 million set-aside from the Community Development Fund to continue the support provided to the National American Indian Housing Council. No funds are provided under the IHBG training and technical assistance set-aside, as the Department believes that sufficient funding is provided through this source.

WORKING CAPITAL FUND

The Department's request of $500 thousand for the Working Capital Fund will help provide information technology and data resources to support enhanced program assessments, performance measurements and accountability.

TITLE VI TRIBAL HOUSING ACTIVITIES LOAN GUARANTEE FUND

The Title VI Tribal Housing Activities Loan Guarantee Fund (Title VI) is also a set-aside under the IHBG Program. The President's Budget requests $2 million in credit subsidy to continue loan activities at previous levels.

The program's subscription rates have been somewhat lower than originally anticipated. The current funds available will provide over $ 392 million in loan guarantee authority, which is more than the program could use. Therefore, this budget proposes to rescind $21 million of unused credit subsidy. However, the 2005 request will support $17.9 million in loan guarantee authority, which will be sufficient to cover future program needs.

SECTION 184 INDIAN HOUSING LOAN GUARANTEE FUND

The President's budget request for this program is $1 million. Each year, as required by the Credit Reform Act, the Section 184 Indian Housing Loan Guarantee Fund credit subsidy rate is re-calculated. The program's subscription rates have been somewhat lower than originally anticipated. The current funds available will support over $811 million in loan guarantee authority, which is more than the program could use. Therefore, this budget proposes to rescind $33 million of unused credit

subsidy. However, the 2005 request of $1 million in credit subsidy will support $29 million in loan guarantee authority, which will be sufficient to cover future program needs.

INDIAN COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

The President's FY 2005 request for the Indian Community Development Block Grant Program is $71.575 million.

NATIVE HAWAIIAN HOUSING BLOCK GRANT PROGRAM

For FY 2005, the Department is requesting $9.5 million. There is a $400 thousand dollar set aside for training and technical assistance. This budget recognizes the unique housing needs of Native Hawaiian families eligible to reside on the Hawaiian Home Lands, and HUD continues to address those needs. A final regulation implementing the NHHBG program was published in the *Federal Register* on November 28, 2003. This action follows promulgation of an interim rule on June 13, 2002, which allowed us to distribute funds and operate the program in fiscal years 2002 and 2003, while public comments were being considered and incorporated into the final regulations.

The Department of Hawaiian Home Lands (DHHL) has been an active partner; there are numerous affordable housing activities in process at more than 14 sites. Let me give you three examples. Waiakea 6, a project of 40 single-family homes, will be constructed on a 21-acre site near Hilo. $2 million of FY 2002 NHHBG funds are being used for site and infrastructure improvements there. The Lalamilo project uses FY 2003 NHHBG funds for site and infrastructure improvements for 440 single-family homes on a 232-acre site in South Kohala. Additional FY 2004 NHHBG funds are earmarked for other construction activities at this location. A total of 320 units will be built in Waiohuli on the island of Maui. $360,000 of NHHBG funds will be used to provide technical assistance and subsidize the construction costs for this phase of 17 self-help units.

SECTION 184A NATIVE HAWAIIAN HOUSING LOAN GUARANTEE FUND

The budget request includes $1 million for the Section 184A Native Hawaiian Housing Loan Guarantee Fund. This program is now in its third year of operation. Modeled after the Section 184 program, the request will provide up to $37.4 million in loan guarantee authority to secure market-rate mortgage loans and activities related to such projects to eligible entities, including the DHHL, non-profit organizations and income-eligible Native Hawaiian families who choose to reside on the Hawaiian Home Lands.

At present, including carryover funds, there is over $119 million in credit authority available under the program. The DHHL, a State agency, is our primary program partner. Among their other

activities, they are responsible for allocation of leasehold interests on the Hawaiian Home Lands. Until direct-endorsement lenders are approved, the Office of Native American Programs (ONAP) National Programs Office will work closely with DHHL, other qualified program partners and individual borrowers to review, underwrite and issue guarantee certificates for all loans.

DHHL has initiated discussions with HomeStreet Bank to finance an affordable housing project on Oahu using the Section 184A loan guarantee program. DHHL's Land Development Division is attempting to identify and acquire a suitable site for a subdivision of 20 to 40 single-family homes. Fannie Mae has indicated a willingness to purchase the loan from HomeStreet Bank upon completion.

NATIVE HAWAIIAN PROGRAMS SPECIALIST

I'd also like to update you on the search for the Native Hawaiian programs specialist to be stationed in Honolulu. When we first advertised for the position, I received a number of resumes from people with good experience, but not the specific experience I want for this critical position. I asked my administrative office to re-advertise the position with different critical selection criteria, which they did, but again we did not receive a pool of highly qualified candidates with the appropriate experience. Then we had a hiring freeze, which has been lifted.

Within the next two weeks we will have this position posted on the Office of Personnel Management's website. I expect to see a number of highly qualified candidates respond. We will act quickly to fill this job.

TRIBAL COLLEGES AND UNIVERSITIES AND ALASKA NATIVE AND NATIVE HAWAIIAN SERVING INSTITUTIONS

The President's budget request for HUD includes, under the Community Development Fund, $3.0 million for competitive grants to tribal colleges and universities to provide resources to build, expand, renovate and equip their facilities, and $3.5 million to assist Alaska Native and Native Hawaiian serving institutions, as they are defined under the Higher Education Act of 1965.

LOAN GUARANTEE FUNDS BALANCES

Let me draw your attention to the loan guarantee funds I mentioned. The Section 184 Program provides a federal guarantee to mortgage lenders to protect them if a homeowner defaults and the property is on trust or restricted land. Indian tribes, their TDHEs and individual Native American families are eligible borrowers, but they must qualify under lender guidelines.

The Title VI Tribal Housing Activities Loan Guarantee Fund is also overflowing. This program is available only to IHBG grantees, and it allows them to supplement their housing program by borrowing up to five times their annual grant. They can pledge their future IHBG allocations as security. Any activity eligible under NAHASDA is an eligible activity under the Title VI program.

Let me focus for a moment on the rescissions in these loan programs. The Department proposes to rescind unused credit subsidy of approximately $54 million, which has accumulated in the funds over the past four-to-five years. This enabled us to preserve full funding for FY 2005 at the FY 2004 request levels in all Native American programs. The rescission will not occur until the end of FY 2005. Any unused credit subsidy that has been committed by that time will not be rescinded.

The ONAP is reaching out to tribes, TDHEs and the lending community in an effort to encourage them to use these programs. I have directed ONAP Deputy Assistant Secretary Rodger Boyd to make this his top priority. I'd like to challenge tribal leaders and the private sector financing community to make good use of these programs and to step up their housing activities by thinking "outside the box" about ways in which to utilize these funds and provide needed housing for their people. We will do everything we can to help.

FORMULA ALLOCATION NEGOTIATED RULEMAKING

In January, we held our seventh and final Formula Allocation Negotiated Rulemaking Committee meeting. The formula, which was created under NAHASDA and fleshed out in its implementing regulations, required revisiting and updating by this year. After extended deliberations, the Committee brought forward over 20 proposals, and reached consensus on about half. It was an arduous and challenging process, and I commend all Committee members, tribal leaders and members of the public for their dedication. After further consultation and review, we will publish a proposed rule for public comment before the end of this fiscal year.

Let me also state for the record that I am committed to holding the next negotiated rulemaking as expeditiously as staffing and resources allow.

CONCLUSION

Finally, let me state for the record that the President's budget request for HUD's Indian housing, education, community and economic development programs supports the progress being made by tribes in providing the housing needed in their communities and throughout Indian Country.

This concludes my prepared remarks. I would be happy to answer any questions you may have.

STATEMENT OF ROSS SWIMMER
SPECIAL TRUSTEE FOR AMERICAN INDIANS
AND
AURENE MARTIN
PRINCIPAL DEPUTY ASSISTANT SECRETARY INDIAN AFFAIRS
BEFORE THE SENATE COMMITTEE ON INDIAN AFFAIRS ON
THE 2005 PRESIDENT'S BUDGET REQUEST FOR INDIAN PROGRAMS

February 25, 2004

It is a pleasure to be here today to discuss with you the fiscal year 2005 budget for Indian programs in the Department of the Interior. President Bush has proposed a $2.3 billion budget for the Bureau of Indian Affairs (BIA) for Fiscal Year 2005. The Operation of Indian Programs account is funded at $1.9 billion, an increase of $36.8 million. The 2005 request for the Office of the Special Trustee for American Indians (OST) is $322.7million, an increase of $113.6 million, 54 percent, above the FY 2004 enacted level. Today, we hope to highlight a number of important initiatives included in this budget, and to answer any questions that you might have.

We are at an important crossroad right now with respect to the Department's budget and the Bureau of Indian Affairs and the Office of the Special Trustee for American Indians. These offices are closely involved with the lives of Indian people, in a way different from almost any other agency's involvement with the American people. American Indians in this country look to the BIA for land management, education, law enforcement, tribal government assistance, and economic development programs. The roles BIA and OST play with regard to the management of tribal and individual trust lands are unlike any other the Federal government shares with its citizens, and go to the heart of the United States' trust responsibility to members of Federally recognized tribes.

As you are well aware, the litigation that has been pending since 1996, formerly *Cobell v. Babbitt* and now *Cobell v. Norton,* has had a profound effect on the Department of the Interior, and the budget for Indian programs. The American Indian Trust Reform Act of 1994 and, more recently, the *Cobell* case have shown us the need to examine closely how we manage individual Indian trust land and individual Indian money (IIM) accounts, and to make organizational changes that reflect a better understanding of the trust responsibility owed to these individuals. These changes come at a price however. Since FY 2000, the unified trust budget has increased from $243.8 million to $614.4 million. In addition, we are looking at possible historical accounting responsibilities arising out of the *Cobell* case that may cost as much as $13 billion to fulfill.

It is time now for Congress to examine the benefit that Indian people are receiving for each dollar appropriated for Indian programs. Interior is now spending many millions of dollars a year to keep track of individual interests in Indian trust lands, and to manage, collect, and distribute revenue from them. This does not include the costs associated with the litigation of the *Cobell* case. The costs of managing accounts that sometimes have as little as one cent in them far exceed the benefits that accrue to the beneficiaries of those accounts. In contrast, this issue

does not arise in the private trust banking industry because individuals pay for such services, and obviously refuse to pay fees that are significantly higher than the revenues generated by the trust. The cost of managing these kinds of individual assets is expected to rise exponentially over the next twenty years as individual Indians die and their interests are further split through inheritance.

While many people believe these rising costs should not be offset by reductions or level funding in other areas of the BIA or Interior budget, the reality is that, to some extent they will be, because the Interior budget is about half of the total funding in the bill developed by the Interior Appropriations Subcommittees. The Subcommittees must address the Interior budget within the allocation they receive, and this allocation is not increasing at the rate of the costs of administering the IIM accounts.

These are issues the Administration and the Congress must address together, particularly given the needs we face throughout the BIA in the areas of education, roads, law enforcement, infrastructure improvements, and economic development. Mr. Chairman, you yourself stated that the "failed policy" of the General Allotment Act "is still with us in the form of horribly fractionated Indian lands and the class action case filed in 1996 that is still ongoing." You also pointed out that the billions of dollars we might spend on historical accounting might be "better spent on re-constituting the Indian land base and building a forward-looking, state-of-the-art trust management system and providing more dollars to Indian health care and education, which we know are underfunded."

There are things we must do to solve the overall problem of fractionation. We believe we must aggressively try to consolidate the millions of interests in individual Indian trust lands into a more manageable number so that these lands can be put to their best economic use. Further, funds spent on managing a high number of small accounts could be put to better use. We propose beginning that process with an aggressive nationwide Indian land consolidation program, and meaningful probate reform.

On January 28, 2004, this Committee marked up S. 1721, the proposed American Indian Probate Reform Act of 2004. We are still reviewing the reported version of S. 1721. However, we must be convinced that the legislation will truly provide meaningful progress before the Administration can support it.

The Unified Trust Budget

The 2005 budget includes funding to sustain and expand work begun to reform, re-engineer, and reorganize trust programs so the Department can do a better job fulfilling its fiduciary trust obligations. The focus of these reforms, in large part, is to create greater accountability to Interior's trust beneficiaries. Fulfilling our trust responsibilities remains one of the Department's highest priorities, but greatest challenges. The Department is responsibile for the management of approximately 100,000 leases for individual Indians and Tribes on a land trust that encompasses approximately 56 million acres. Revenue from leasing, use permits, sale revenues, and interest, totaling approximately $194 million per year, is collected for approximately 260,000 open individual Indian money accounts, and about $378 million per year is collected for

approximately 1,400 tribal accounts. In addition, the trust manages approximately $2.9 billion in tribal funds and $400 million in individual Indian funds.

The 2005 Unified Trust Budget focuses on:

- **Land Consolidation** – The 2005 budget includes an unprecedented $75.0 million for a nationwide Indian land consolidation program using contractual arrangements with Tribes or private entities to purchase individual interests in Indian trust land on a willing seller basis that then can be transferred to the Tribe having jurisdiction of the lands. This program will build on the ongoing Indian Land Consolidation program that, as of December 31, 2003 purchased 68,938 individual interests equal to approximately 42,075 acres.

- **Reengineering** -- The Department is now involved in the "To-Be" reengineering phase of the reengineering of trust business processes. In this phase, we are looking at what we must do to transform our current processes into an efficient, consistent, integrated, and fiscally responsible business model that meets the needs of our beneficiaries and addresses our duties as a trustee.

  As part of this process, we are looking at business processes that vary from region to region, attempting to standardize these processes, and comparing our current and proposed practices with standard industry practices. We then must integrate the final "To-Be" model into use in OST, BIA, and other Interior agencies. We expect the final "To-Be" model to be completed by May 31, 2004, and its implementation to be initiated during the balance of 2004.

- **IT Infrastructure** -- The 2005 budget includes an increase of $29.1 million to continue the ground-up rebuilding of the BIA IT infrastructure to support trust as well as non-trust programs. BIA, OST, and the Department's Solicitor's Office have been without external e-mail capability and Internet access since the court ordered shutdown in December 2001. Since the shutdown, BIA has revamped its enterprise infrastructure and management practices. The BIA established a state-of-the-art wide-area network operations command center, and a security operations center. We have developed over 40 new IT policies and procedures that comply with the security requirements of OMB Circular A-130 and the Government Information Security Results Act.

- **Continuing Implementation of the Comprehensive Trust Management Plan** through:

  - continuing implementation of trust reorganization so that both the BIA and OST can provide better direct beneficiary services, and

  - funding of the Department's $335 million five-year historical accounting plan. The 2005 budget of $109.4 million for the Office of Historical Trust Accounting includes an increase of $65.0 million over the enacted 2004

level. This includes $80.0 million for IIM accounting, and $29.4 million for tribal accounting. The 2005 level for historical accounting is based on the Department's costs to begin full implementation of its plan after December 31, 2004. P.L. 108-108 provided that the Department is not required to commence or continue historical accounting activities until the earlier of the following has occurred: (1) Congress amends the American Indian Trust Management Reform Act of 1994 to delineate the specific historical accounting obligations of the Department with respect to the Individual Indian Money Trust; or (2) December 31, 2004 .

The 2005 budget for accounting may be revised depending on how the Court of Appeals rules on the District Court's structural injunction order in the *Cobell* litigation or on whether Congressional action is taken. On January 28, 2004, the Court of Appeals issued a stay of the District Court's order pending its hearing of the government's appeal.

Indian Education

One of BIA's most important strategic goals is to provide high quality educational opportunities from early childhood through adulthood, instilling a desire for life-long learning to keep pace with an ever-changing world. Education is the cornerstone of a viable and prosperous future for tribal governments and American Indians. Almost 48,000 students in 23 States attend elementary and secondary schools and dormitories that form the BIA school system. The BIA directly operates one-third of these schools. The other two-thirds are operated under contracts or grants to Tribes or other tribal organizations. In addition, the BIA budget also supports higher education in Indian country.

The 2005 school operations request is $522.4 million. This funding will help to maintain the President's commitment to improve student achievement at BIA schools. The request includes an increase of $500,000 to expand the highly successful FOCUS program to five additional schools.

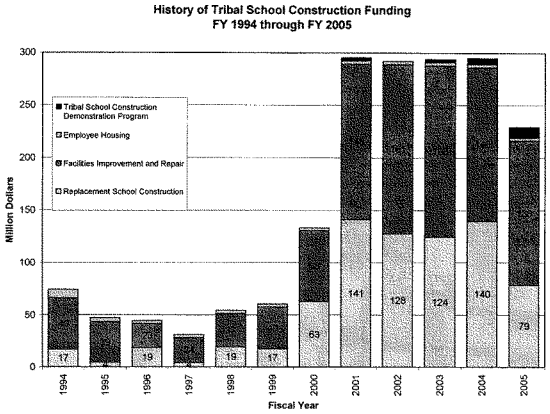
The FOCUS program provides targeted assistance to under-achieving schools to help them raise their level of instruction and improve student achievement. Through funding like this, at-risk students and their parents are provided innovative programs designed to make education an important part of their daily lives. One school has raised its academic scores by over 20 percent since it has been a part of the program.

Funding for post-secondary education totals $43.4 million in the 2005 budget. This includes an increase to support two tribally controlled colleges that have recently met statutory requirements for BIA support – Tohono O'odham Community College in Arizona and the Saginaw Chippewa Tribal College in Michigan.

The President's first three budgets, FYs 2002, 2003, and 2004, included more than $881 million for Indian school construction, providing an increasing number of students with a school environment that is safe, healthy, and conducive to educational achievement. With funding provided through FY 2004, the facilities condition index scale for BIA schools will reach 0.124, a significant reduction from 0.266 in 2001. A score of 0.100 is the threshold for fair/good condition. The funding included for 2005 will further reduce that score to .113, with 60 percent of schools having an index of 0.100 or less.

The 2005 budget includes $68.5 million to replace buildings at the remaining five schools on the 2003 priority-ranking for education facilities construction. The budget also includes $9.9 million for the tribal school, construction demonstration project, which provides incentives for Tribes to match Federal funds to build replacement schools. The education facilities improvement and repair program is funded at $137.5 million, with funding for annual maintenance increased by $21.0 million to $71 million to prevent growth in the deferred maintenance backlog.

As the following chart shows, the 2005 budget does include a decrease in tribal school construction funding. Yhis Administration has made an extraordinary commitment to this area as compared to funding levels in the past. For FY 2005, the program needs to focus more on the schools that have already been funded for construction and develop a new priority list for replacement schools. Between 2001 and 2004, funding was appropriated for 25 replacement schools. Of these, 21 are in the planning and design process or under construction. The other four have been completed and are operating. Three are expected to be completed in 2004.



Enhancing Consultation

The Department recognizes the importance of consultation as part of its government-to-government relationship with the 562 federally recognized Indian Tribes. The 2005 budget includes a total of $1.1 million for a new Office of Consultation within the Office of the Assistant Secretary - Indian Affairs. This new office will provide a stable, continuous point of contact for the Tribes and maximize both financial and manpower resources to fulfill responsibilities to consult with Tribes on the myriad of issues facing the BIA.

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The BIA is responsible for ensuring that consultation with tribes occurs on issues that affect Indian Country. The proposed new Office of Consultation will have dedicated staff and a budget to ensure continuous, stable consultation with Tribes throughout the nation in support of the Secretary's priorities. The staff will be responsible for day-to-day and quarterly reporting on the status of all consultation issues, as well as a formal annual report on the outcome of consultation issues. Funds will also cover costs of tribal consultation meetings, including the cost of meeting rooms and tribal leaders' travel expenses. Having a coordinated focal point for Tribal consultation will provide the Secretary and the BIA with an excellent source of access to and from Tribal leaders on issues of concern. The 2005 request will be used for the initial start-up of the new office.

A Better BIA

In addition to the trust reform reorganization discussed above, a number of programs are included in the 2005 budget that will make the BIA a stronger, more effective agency for Indian people.

Included in the budget for the first time is a pilot program that will not only help Indian students with education costs, but will also help to build a strong future for the BIA. The 2005 request includes $250,000 for a student loan repayment program specifically targeted to students who agree to a term of employment on a reservation or within the BIA. We are excited at the prospect of attracting the brightest young Indian minds to service within the BIA.

We are not just interested in attracting talent, but in retaining it as well. Our goal is to create opportunities and an atmosphere that results in the retention of the best and the brightest. In support of the President's Management Agenda and the Department of the Interior's Human Capital Plan, a total of $2.0 million is included in the 2005 budget to establish a BIA Workforce Improvement and Retention Program. The vision for this program is to provide an integrated career planning and development program for the evolving BIA workforce.

The program will include, among other things –

- the development of an orientation program for new employees,
- basic skills training in computers, business writing, and briefing presentations,
- E-learning (web-based training),
- post secondary and graduate degree support for employees,
- development of a Trust Management Intern Program with an anticipated ten interns annually,
- a Management Development program, and a
- Senior Executive Service development.

Public Safety and Justice in Indian Country

The Department of Justice and the BIA work in partnership to improve public safety and justice in Indian country. A joint Interior-Justice initiative has provided over $128 million in funding to construct 20 new detention centers serving Indian populations. The 2005 budget includes an increase of $7.8 million to provide startup operations at eight BIA detention centers that will be completed in 2005. These new centers will mark the completion of 18 new detention centers between 2002 and 2005. These new centers will alleviate current problems such as overcrowding and the mixing of juveniles with adult detainees.

The 2005 request also includes an increase of $1.4 million for law enforcement on the Tohono O'odham Reservation in southern Arizona. This increase will allow reservation

law enforcement forces to better protect lives, resources, and property on the border areas and other high-risk and violent crime areas on the reservation.

Resource Management

The BIA manages 56 million acres of trust lands and the natural resources they contain on behalf of Tribes and individual Indians. It is estimated that approximately 15 million acres of undeveloped energy and mineral resources may exist on these lands.

The 2005 budget includes an increase of $1.0 million to improve management of Indian forests, which cover 17 million acres located on 275 reservations in 26 States. The request will increase the number of reservations covered by forest management plans, a key component for comprehensive management of a reservation's resources. These plans are designed to optimize benefits, including sustainable increases in revenue, as well as to address best management practices on reservation forests. Currently, only 44 percent of forested acres on reservations are covered by forest management plans.

Indian Self-Determination

The 2005 budget continues the Federal government's commitment to support Indian self-determination and strengthen the government-to-government relationship it has with Indian Nations. Tribes depend on the Tribal Priority Allocations (TPA) budget activity for basic necessities and programs critical to improving the quality of life and economic potential on reservations. Tribal Priority Allocations give Tribes the flexibility to prioritize funds among most TPA programs according to their unique needs and circumstances. The 2005 request funds the TPA activity at $775.6 million, which comprises 40 percent of the 2005 proposed BIA operating budget.

This includes $1.0 million for the Indian self-determination fund to provide 100 percent of indirect costs to first-time and expanded contracts. In addition, the budget includes $560,000 for six newly Federally acknowledged Tribes to help them establish day-to-day tribal government operations and provide program services to members.

Economic Development

Working closely with federally recognized Tribes, the Department promotes economic development and an improved quality of life for 1.5 million American Indians in communities across the country.

The 2005 budget includes an increase of $1 million to help Tribes develop uniform business codes. A codified standard will enable businesses bringing jobs to the reservations to understand what is expected of them throughout Indian country, and should result in an enhanced ability to attract quality jobs to the reservations. This in

turn, will help address unemployment among Indian people, one of the biggest challenges Indian communities face today.

Resolving Land and Water Claims

The 2005 Interior budget includes $34.8 million for payment of authorized Indian land and water claim settlements in Oklahoma, Nevada, Colorado, New Mexico, and New York. These settlements resolve longstanding claims to water and lands by Indian Tribes. They are the result of negotiations among the Tribes, the Federal government, and other interested parties. While the specific provisions of each settlement differ, most contain multi-year funding commitments. Once an agreement has been reached, the affected Tribe depends on appropriated funds to implement the agreement, which often involves beginning new water development projects or other economic development initiatives.

The 2005 request for settlements reflects a net decrease of $25.1 million from the 2004 funding level primarily because the Federal commitment was completed in 2004 for the Santo Domingo and Ute Indian settlements. The BIA budget request includes funding for two new settlements: $14.0 million for Zuni Pueblo water claims and $1.75 million for Seneca Nation land claims at Cuba Lake in New York. The total settlement of $19.3 million for the Zuni water claims settlement will be paid over two years. The settlement for Cuba Lake land claims by the Seneca Nation is a one-time payment.

The budget includes $10.0 million for the second of four payments for the Cherokee, Choctaw, and Chickasaw Settlement in Oklahoma, and $8.0 million for the Colorado Ute/Animas La Plata settlement. Funding of $52.0 million for construction activities associated with that settlement is included in the Bureau of Reclamation budget. In addition, the Quinault settlement is proposed to be funded in the Fish and Wildlife budget, rather than the BIA budget.

Summary

This budget request provides a substantial increase in funding for Indian land consolidation aimed at stemming the growing problem of Indian land fractionation. It also places emphasis on education, public safety, justice, economic development and self-determination, evidencing this Administration's commitment to improving the lives of Indian people. We would be happy to answer any questions you might have at this time.

United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

JUN 0 8 2004

Honorable Ben Nighthorse Campbell
Chairman, Committee on Indian Affairs
United States Senate
Washington, DC 20510-6450

Dear Mr. Chairman:

I am pleased to provide the responses prepared by the Bureau of Indian Affairs and the Office of the Special Trustee for American Indians to the questions submitted following the February 25, 2004, oversight hearing on the President's FY 2005 Budget Request for Indian Programs.

Thank you for the opportunity to provide this material to the Committee.

Sincerely,

Jane Lyder

Jane M. Lyder
Legislative Counsel
Office of Congressional and
Legislative Affairs

Enclosure

cc: Honorable Daniel K. Inouye
Vice Chairman, Committee on Indian Affairs

1. Reorganization. Last year the BIA began a sweeping Reorganization to address trust management issues.

Question 1a: Can you give the Committee an estimate on the projected total cost of this reorganization effort once it is completed?

Answer: Other than the initial costs of consultation with the Tribes, the cost of the reorganization effort is comprised mostly of the cost of hiring additional staff to improve the delivery of trust resources at the field locations. Between FY 2004 and FY 2007, the Bureau plans to hire 124 additional staff, 108 of which will be Deputy Superintendent positions at the local level to oversee daily trust transactions and operations. Once filled, the total cost of these positions, including travel, training and equipment is estimated to be approximately $16 million per year. In addition to requesting additional funding in the FY 2005 budget and future budgets, the Bureau is also working to identify available funding with the current budget, such as using prior year carryover and expiring funds.

Question 1b: Is there any FY 2005 funding slated to go toward further reorganization?

Answer: The President's FY 2005 budget request includes $5.5 million to support 25 Deputy Superintendent positions at the local level to oversee daily trust transactions and operations.

2. Probate Reform. After years of working on probate reform legislation, on January 28, 2004, this Committee marked up S. 1721 and reported the bill to the Senate. I am frankly very surprised to read your testimony that the Administration does not support it – least of which because we worked very closely with Secretary Norton's top staff on the bill.

Question: Can you explain to me why now the Administration is backing off its support for S. 1721 and what the specific flaws you see with this bill?

Answer: The Department had serious concerns with the version of S. 1721 that was moving forward. It was our view that modifications to S. 1721 were necessary in order to make improvements to the current law. Any legislation in this area must provide meaningful reform before the Administration can support it. Since the markup in January, we have worked extensively with your staff on this issue and are pleased to see that many important changes are now reflected in the substitute amendment adopted by the Committee on April 21, 2004.

3. Consultation: One of the new proposals in this budget request is $1.1 million to establish a permanent "Office of Tribal Consultation."

Question 3a: What exactly would this Office do and do you anticipate a similar level of funding every year?

Answer: The Office of Tribal Consultation will coordinate all consultation efforts for Indian Affairs. This office will ensure that consultation is occurring where appropriate and be the contact point for all Indian Affairs efforts on consulting with tribal governments.

The Department anticipates making future budget requests that will meet the needs of this office.

Question 3b: Executive Order 13175 directs the tribal consultation occur at every level of every Federal agency. Where is the proposed location for this new office in the Department's organization? Will it be within the BIA only, or in the Secretary's office?

Answer: The Office of Tribal Consultation will be located within the Office of the Assistant Secretary – Indian Affairs, which is a part of the Office of the Secretary.

4. FY 2004 Appropriations Bill. In the FY 2004 Interior Appropriations bill language was inserted that suspended the Court-imposed requirement for historical accounting to commence or continue, until either (a) Congress amends the 1994 Act, or (b) Dec. 31, 2004.

Yet, this year's budget request proposes to strike that language.

Question: What has occurred in the last two months that has the Department now pushing to have this language removed?

Answer: The FY 2004 Interior Appropriations language was inserted in the conference report of the FY 2004 bill in response to the September 2003 ruling in the *Cobell* case. It places a moratorium on any accounting until Congress addresses the issue of what kind of accounting it expects by amending the 1994 Act or until December 31, 2004, whichever comes first. We are of course hopeful that Congress will address this issue before December 31, 2004. However, the FY 2005 budget request does not assume this. The FY 2005 budget addresses the FY 2004 language by assuming the accounting moratorium will be lifted as of December 31, 2004, and therefore proposes $80.0 million to fund the Individual Indian Money accounting and $29 million for Tribal accounting. That amount is based on the Department's costs to begin, after December 31, 2004, implementation of the Department's proposed historical accounting plan. This amount may be revised depending on how the Court of Appeals for the District of Columbia circuit rules with regard to the structural injunction in the *Cobell* case or on whether Congressional action is taken

to delineate the specific historical accounting obligations of the Department as suggested in the 2004 Appropriations Act.

5. Fractionation. The Indian Land Consolidation program is slated to receive a healthy boost to a total of $75 million.

Question 5a: Is this level of funding substantial enough to begin addressing the problem of fractionation on a national scope?

Answer: In order to address the exponential growth of fractionated interests in individual Indian allotted lands, the Indian land consolidation program must be significantly expanded. The FY 2005 budget proposes $70 million for the program, an increase of $48.3 million. The funding will provide for a nationwide program utilizing contractual arrangements with tribes or private entities to purchase the most highly fractionated interests from willing individual owners. Funds will also be used to address the resolution of the *Babbitt v Youpee* decision. Funding at this level will permit an acceleration of fractionated land acquisition. However, even at this funding level without new tools that will be helpful to the Department in our consolidation efforts, such as partition authority and reforms to probate, fractionation will continue.

Question 5b: Are there any carryover funds in this account from previous years?

Answer: Funds appropriated for the Indian Land Consolidation account are appropriated without fiscal year limitation. As of September 30, 2003, there was an unobligated balance in the account of $10.6 million. Approximately $9.8 million of this amount has been obligated as of March 31, 2004. The Department is currently working on program expansion plans that should be completed shortly. With the expansion plans to other locations, the Department expects to obligate all remaining carryover funds and the FY 2004 appropriation of $21.7 million this fiscal year.

6. Tribal Self-Governance. I am glad to hear that 40% of the BIA operating budget is now going directly to Tribes as Tribal Priority Allocations.

Question: How many "first-time and expanded contracting tribes do you anticipate will enter the "638" program this year?

Answer: For FY 2005, the Department anticipates that there will be 5 additional tribes/consortia entering into Self-Governance compacts; however, these tribes will have had previous contracting experience with the BIA and will not increase the amount of programs, services, functions or activities being assumed by tribes from the BIA.

7. Newly Recognized Tribes. I see that $560,000 is provided for 6 newly recognized Tribes.

Question: Can you tell us the names of those six tribes and the year in which they were recognized?

Answer: The six tribes include the following:

Name of Tribe	Type of Recognition and Date
Shawnee Tribe of Oklahoma	Congressional recognition, Public Law 106-568, 114 Stat. 2913, December 27, 2000
Graton Rancheria	Congressional recognition, Public Law 106-568, 114 Stat. 2939, December 27, 2000
Lower Lake Rancheria, California	Decision by the Assistant Secretary – Indian Affairs (reaffirmation of recognition) on December 29, 2000
Shoonaq Tribe of Kodiak	Decision by the Assistant Secretary – Indian Affairs (reaffirmation of recognition) on December 29, 2000
King Salmon, Alaska	Decision by the Assistant Secretary – Indian Affairs (reaffirmation of recognition) on December 29, 2000
Cowlitz Tribe, Washington	Administrative recognition under 25 CFR Part 83, Effective January 4, 2002.

8. Tribal Courts. Tribal courts and law enforcement remain seriously underfunded, yet critical programs.

Question: What amount is in the Department's Budget Request for Tribal Courts?

Answer: The Department's FY 2005 request for tribal courts is $23 million.

9. School construction: In 1997, the GAO estimated a backlog of school construction of $70 million. Your testimony indicates that funding for school construction has been decreased by approximately $61 million for FY 2005, but does not provide any justification for the decrease.

Question: Does this decrease suggest the backlog has been eliminated, if not, then what is the justification for the decrease?

Answer: With the FY 2005 budget, over $1.1 billion in four years would be provided for BIA school construction. By the time we have completed the work proposed in our FY 2005 budget, we will have doubled the number of schools in acceptable condition. Three years ago, 65 percent of BIA schools were in poor condition. At the FY 2005 request, 60% will have a facility condition index score of .100 or less, which means they are in fair or good condition.

The FY 2005 funding level has been reduced to allow the program to focus on building the schools already funded for construction. The FY 2005 request funds remaining schools on the current replacement priority list.

Fourteen schools were recently published in the *Federal Register* to continue the Replacement School Construction Program through FY 2007; the funding and scheduling of these projects will be contingent on the availability of funds.

There is an increase of $21 million within the Education Construction program for the annual facilities maintenance program that will also help the BIA avoid future deferred maintenance backlogs.

10. United Tribes Technical College. In this proposed budget, the funding for the United Tribes Technical College (UTTC) has been eliminated even though it has been part of the Interior appropriations since the 1980s.

Question 10a: UTTC and Crownpoint Institute of Technology are under the Perkins Act and not the Tribally-Controlled Community Colleges Act. What is the justification for forcing these schools to seek funding add-ons each year instead of seeking a permanent solution?

Answer: The Tribally-Controlled Community Colleges Act (Pub. L. 95-471) requires that the post-secondary institution be sponsored by a single Tribe. The legislation limits the number of post-secondary institutions to one per Tribe. Congress recognized this distinction and authorized UTTC and CIT to receive Department of Education Section 117 Carl Perkins Act assistance. Under Carl Perkins, only tribal colleges not receiving assistance under BIA's authority are eligible. For the 2005 Budget UTTC and CIT will receive as much, if not more than Tribal colleges funded under the BIA programs.

The Crownpoint Institute of Technology (CIT) serves communities in the Southwest United States; principally Navajo communities. The Navajo Tribe currently sponsors Dine' College under provisions of Public Law 95-471 and therefore cannot simultaneously sponsor CIT as a Tribal College or University (TCU).

The charter of the UTTC (located in North Dakota) states that it services citizens of the 3 Affiliated Tribes (Mandan, Hidatsa, and Arikara), Sisseton-Wahpeton Tribe, the Standing Rock Sioux, Spirit Lake Dakota, and the Turtle Mountain Band of Chipewa. These same Tribes operate (respectively) Ft. Berthold College, Sisseton-Wahpeton College, Sitting Bull College, Cankdeska-Cikana, and Turtle Mountain College. Under

provisions of Pub. L. 95-471, these Tribes cannot simultaneously sponsor their own TCU and UTTC.

Question 10b: What alternatives have the Department pursued to find permanent funding for these two schools?

Answer: The Department provides funding to the American Indian Higher Education Consortium (AIHEC) whose charter is to assist Indian post-secondary institutions in a variety of methods. This includes providing some technical assistance, and to help schools identify resources to maintain the programs offered. Both UTTC and CIT are members of AIHEC.

As stated in the response to question 10a above, the Congress provided an alternative funding source for both UTTC and CIT. Congress authorized UTTC and CIT to be eligible for Department of Education Section 117 Carl Perkins grants, a source of funding not available to the other 25 BIA-funded tribal colleges. In regard to securing permanent funding, none of the federal funding provided to the 25 BIA-funded colleges or UTTC and CIT is considered "permanent" because it is subject to annual appropriations.

Statement by
Victoria Vasques
Deputy Under Secretary and Director, Office of Indian Education
U.S. Department of Education

On the Fiscal Year 2005 Budget Request for
Department of Education Programs Serving
American Indians, Alaska Natives, and Native Hawaiians

Delivered before the
Senate Committee on Indian Affairs
February 25, 2004

Ms. Vasques is accompanied by

Cathie Martin, Group Leader, Office of Indian Education

Lonna Jones, Acting Director, Elementary, Secondary,
and Vocational Analysis Division, Budget Service

U.S. Department of Education

DEPARTMENT OF EDUCATION

Statement by Victoria Vasques
Deputy Under Secretary and Director, Office of Indian Education

before the

Senate Committee on Indian Affairs
on the Fiscal Year 2005 Budget for
Department of Education Programs Serving
American Indians, Alaska Natives, and Native Hawaiians

February 25, 2004

Mr. Chairman and Members of the Committee, on behalf of Secretary Paige, I thank you for the opportunity to share and discuss our fiscal year 2005 budget request for Department of Education programs that address and serve the needs of American Indians, Alaska Natives, and Native Hawaiians.

My name is Victoria Vasques, the Deputy Under Secretary and Director of the Office of Indian Education. In this capacity, I oversee the programs that support the efforts of local educational agencies, Indian tribes, and organizations that assist American Indian and Alaska Native students in achieving to the same high standards as all students.

The Department of Education, led by Secretary Paige, recognizes and reaffirms the special relationship of the Federal government to American Indians and their sovereign tribal nations and our commitment to educational excellence and opportunity for American Indian and Alaska Native children. Over the past year, there have been a number of positive developments at the Department.

The Secretary elevated the Office of Indian Education to report directly to the Under Secretary of Education. The National Advisory Council Charter on Indian

Education has been authorized through 2007 and candidates for the Council are awaiting Presidential appointment. Just a few months ago, Secretary Paige visited the Gila River Indian Community where he took a tour of the community's new early childhood education center and awarded a three quarters of a million dollars grant to help prepare 3 and 4 year old Indian students for kindergarten. Currently, the Office of Indian Education is working in partnership with Tribal Education Departments and the Bureau of Indian Affairs to improve program services and coordinate efforts to raise the academic achievement of American Indian and Alaskan Native students.

Working with you and the Committee on Indian Affairs, the Department is helping to ensure that children who are American Indians, Alaska Natives, and Native Hawaiians receive every opportunity to achieve to high academic standards.

Overview

Two years ago President George W. Bush launched the most important reform of public education in a generation by signing into law the *No Child Left Behind Act* of 2001 *(NCLB Act),* which reauthorized the Elementary and Secondary Education Act of 1965 (ESEA). The new law was based on stronger accountability, more choices for parents and students, greater flexibility for States and school districts, and the use of instruction proven effective through scientifically based research. The overall goal is to ensure that by 2013-2014, every student, including American Indians, Alaska Natives, and Native Hawaiians, will be proficient in reading and mathematics.

American Indians have made educational progress in recent decades, but continue to be disproportionately affected by poverty, low educational attainment, and fewer educational opportunities than other students. For example, according to the National

Assessment of Educational Progress (NAEP), in 2003, only 16 percent of American Indian fourth-graders scored at or above the proficient level in reading compared to 41 percent of white students and 31 percent of all students. In addition, while American Indians made progress overall on the SAT, in 2001, they scored 100 points below white students and 60 points below the general population. However, there have also been signs of improvement. On the mathematics portion of the NAEP test, American Indian fourth-graders who scored at or above the basic level increased from 40 percent to 64 percent between 2000 and 2003.

The 2005 budget request for the Department of Education supports the President's commitment to providing resources to help implement the NCLB Act and improve educational opportunities for all students. American Indian students will benefit from major initiatives in the NCLB Act, and many programs at the Department help to ensure that Indian students have full access to these and other reforms to improve education. Overall, estimates show that Department programs provide nearly $1 billion in direct support specifically for Indians and Alaska Natives. In addition, significant funds are provided to Indian students who receive services through Federal programs such as ESEA Title I Grants to Local Educational Agencies and IDEA State Grants.

The 2005 budget request includes a number of programs and initiatives that focus specifically on helping Indian students achieve.

Indian Education Programs

The President's request for the Department's Indian Education programs for fiscal year 2005 is $120.9 million. These programs include formula grants to school

districts, competitive programs, and national activities for research and evaluation on the educational needs and status of the Indian population.

Indian Education - Grants to Local Educational Agencies

We are requesting $95.9 million for Indian Education formula grants to local educational agencies (LEAs). This program is the Department's principle vehicle for addressing the unique educational and culturally related needs of Indian children. These grants supplement the regular school program, helping Indian children improve their academic skills, raise their self-confidence, and participate in enrichment programs and activities that would otherwise be unavailable. The requested level would provide an estimated per-pupil payment of $203 for approximately 472,000 students, including students in Bureau of Indian Affairs (BIA) schools.

Special Programs for Indian Children

Our request for Special Programs for Indian Children is $19.8 million. These funds would be used for three activities.

Approximately $10 million will support an estimated 46 Demonstration grants that focus on two objectives. First, school readiness programs provide age appropriate educational programs and language skills to American Indian and Alaska Native 3- and 4-year old children to prepare them for successful entry into school at the kindergarten level. And, second, college preparatory programs for American Indian and Alaska Native secondary students designed to increase competency and skills in challenging subject matters, including mathematics and science, to enable these students to successfully transition to postsecondary education.

In addition, the 2005 request will provide over $9 million to continue two training efforts under our Professional Development program, the American Indian Teacher Corps and the American Indian Administrator Corps initiatives. Approximately $7.7 million of these funds will be used to support the American Indian Teacher Corps that trains Indian individuals, at the bachelor's degree level at a minimum, and who will meet full State certification or licensure requirements. The 2005 request will also provide approximately $2 million for the Administrator Corps to train Indian individuals at the master's degree level to become new school administrators with full State certification. Both programs are designed to provide on-going professional development and in-service support to these new Indian teachers and administrators in their first year of work in schools with concentrations of Indian students.

National Activities

We are requesting approximately $5.2 million for research, evaluation, data-collection and technical assistance related to Indian education.

In 2001, the Department released a comprehensive research agenda for Indian education. This agenda responds to the national need for better information on the educational status and needs of Indian students, and for scientifically based research on what works most effectively in meeting the educational needs of this population. Fiscal year 2005 funds would be used to continue implementing that agenda, including continued support for the third phase of the National Indian Education Study that will collect data, through the National Assessment of Educational Progress, on American Indian and Alaska Native 4th and 8th grade student performance in mathematics and reading. We have created a technical assistance panel that is made up of teachers,

administrators, and researchers from the Indian community to provide expert advice on the planning and implementation of this study.

Fiscal year 2005 funds would also be used to continue research grants and data collections initiated in earlier years and to promote ongoing program improvement for Indian Education Grants to LEAs and Special Programs.

In addition to the Indian Education programs, the Department also supports the education of Indians through other programs.

Title I: Education for the Disadvantaged

Title I Grants to LEAs

Title I provides supplemental education funding to local educational agencies and schools, especially in high-poverty areas, to help more than 15 million educationally disadvantaged students, including an estimated 260,000 Indian children, learn to the same high standards as other students. Title I funds may be used, for example, to provide eligible students with supplemental instructional programs at all grade levels, extended-day kindergarten programs, learning laboratories in math and science, and intensive summer programs. As amended by the NCLB Act, Title I requires stronger accountability for helping students, including Indian students, make adequate yearly progress toward State academic standards.

The Department is requesting $13.3 billion for Title I Grants to LEAs in fiscal year 2005, a 52 percent increase since the passage of the NCLB Act. Under the statute, the BIA and the Outlying Areas receive 1 percent of these funds. The BIA share of the set-aside would be approximately $97.9 million, an increase of more than $7.8 million.

These funds would serve almost 48,000 children in BIA schools, in addition to Indian children served in regular public schools.

Reading First Grants

Reading First is a comprehensive effort to implement the findings of high-quality scientifically based research on reading and reading instruction. Helping all children read well by the end of 3rd grade is one of the Administration's highest priorities for education. Providing consistent support for reading success from the earliest age has critically important benefits. Under this formula program, the BIA will receive 0.5 percent of the State Grants appropriation. Our 2005 budget request of $1.1 billion is a 9.9 percent increase over the 2004 level. It would provide approximately $5.6 million to BIA schools for this program, an increase of more than $500,000.

Improving Teacher Quality State Grants

The President's budget request emphasizes the importance of good teaching for all students. The Improving Teacher Quality State Grants program provides flexible funds to State and LEAs to develop and support a high-quality teaching force through activities that are grounded in scientifically based research. Funds are used to strengthen the skills and knowledge of teachers and administrators to enable them to improve student achievement in the core academic subjects and for teacher and principal recruitment, development, and retention. The NCLB Act created this program by consolidating the former Eisenhower Professional Development and Class-Size Reduction programs. Under the statute, the BIA receives a set-aside of 0.5 percent.

The Department's fiscal year 2005 request of $2.9 billion would provide the BIA with an allocation of almost $14.6 million.

Safe and Drug-Free Schools and Communities

The Safe and Drug-Free Schools and Communities program is designed to help create and maintain drug-free, safe, and orderly environments for learning in and around schools by supporting effective, research-based approaches to drug and violence prevention. Of the appropriation for State grants, 1 percent or $4.75 million (whichever is greater) is reserved for drug- and violence- prevention programs serving Indian children in BIA-operated or -supported schools, and 0.2 percent is reserved for programs serving Native Hawaiians.

The 2005 budget request of $440.9 million for Safe and Drug-Free Schools State grants includes $4.75 million for the BIA and approximately $882,000 for Native Hawaiian programs.

Impact Aid

Basic Support Payments

Impact Aid provides financial assistance to school districts affected by Federal activities. The Basic Support Payments program is the primary vehicle for providing assistance to many LEAs that educate Indian children. The 2005 budget request of $1.1 billion would provide approximately $502.7 million to support the education of almost 125,000 children living on Indian lands.

Payments for Children with Disabilities

Impact Aid Payments for Children with Disabilities help Federally affected school districts to provide the special education services required by the Individuals with

Disabilities Education Act for Federally connected children, including children residing on Indian lands. The budget request of $50.4 million would provide approximately $21.6 million for services to approximately 19,000 children with disabilities living on Indian lands.

Construction

The Impact Aid Construction program provides formula and competitive funds to support school construction and renovation in school districts that educate Federally connected students or have Federally owned land. Under the budget request, approximately $9.2 million in formula grants would go to districts on behalf of students residing on Indian lands. Funds may be used for such purposes as construction and renovation of school facilities and debt service related to the construction of school facilities. In addition, districts with high concentrations of students living on Indian lands would be eligible for $27.6 million in competitive construction grants. In FY 2002, $26.8 million out of $27 million went to Indian districts.

English Language Acquisition

English Language Acquisition programs support the education of limited English proficient students through a State formula grant program that helps to ensure that these students learn English and meet the same high academic standards as other students. The NCLB Act established a set-aside of 0.5 percent or $5 million (whichever is greater) for schools operated predominantly for American Indian, Alaska Native and Native Hawaiian children. The 2005 budget request would include $5 million for these schools. In addition, the English Language Acquisition State formula grant funds would also serve American Indian, Alaskan Native and Native Hawaiian English language learners enrolled in public schools.

21st Century Community Learning Centers

The 21st Century Community Learning Centers program enables communities to establish or expand centers that provide activities offering extended learning opportunities (such as before- and after-school programs) for students and related services to their families. The NCLB Act converted this activity from a national competition to a State formula- grant program, with State educational agencies making competitive subgrants within their States. The Department may reserve not more than 1 percent of the appropriation for grants to the Bureau of Indian Affairs and the Outlying Areas. The fiscal year 2005 request of $999 million would provide approximately $7.6 million to the BIA.

Education Technology State Grants

The Education Technology State Grants program supports efforts to integrate technology into curricula to improve teaching and learning. By statute, 0.75 of the amount available for States is reserved for schools operated or funded by the BIA. The Department is requesting $691.8 million for the program, which would provide approximately $5.1 million for BIA schools.

Grants for State Assessments

The Grants for State Assessments program helps States develop and implement the additional assessments required by the NCLB Act. Under the funding formula, 0.5 percent of the appropriation for formula grants is reserved for the BIA. For 2005, the Administration is requesting $400 million for the formula grants portion of this program, $2 million of which would go to the BIA.

Education for Native Hawaiians

We are requesting $33.3 million for Education for Native Hawaiians. These funds support a wide array of education services to improve the educational status of Native Hawaiians, including curriculum development, teacher training and recruitment, higher education, special education, community-based learning centers, family-based education, and gifted and talented programs.

Alaska Native Education Equity

We are requesting $33.3 million for Alaska Native Education Equity. These funds support an array of education services to improve the educational status of Alaska Natives, including student enrichment, preschool programs, teacher training, and curriculum development.

Education for Homeless Children and Youth

Under the McKinney-Vento Homeless Assistance Act, the Secretary is required to transfer 1 percent of the appropriation for Education for Homeless Children and Youth to the BIA for services to Indian students in BIA-operated and funded schools. Our 2005 budget request of $59.6 million includes more than $596,000 for the BIA to provide services to homeless children and youth to enable them to attend and excel in school.

Vocational Education

The Vocational Education State Grants program, authorized under the Carl D. Perkins Vocational and Technical Education Act of 1998 (Perkins Act), supports education programs designed to develop the academic, vocational, and technical skills of students in high schools and community colleges. The current program has a

1.25 percent set aside for competitive grants to Federally recognized Indian tribes, tribal organizations, and Alaska Native entities, and 0.25 percent is set aside for grants to organizations that primarily serve and represent Native Hawaiians. However, funding shares for the reauthorized program have not been estimated, since the Administration is proposing overall changes for 2005 reauthorization of the program.

Tribally Controlled Postsecondary Vocational and Technical Institutions

This program, also authorized by the Perkins Act, provides competitive grants for the operation and improvement of tribally controlled postsecondary vocational and technical institutions. Funds provide continued and expanded educational opportunities and training for Indian students attending those institutions, along with institutional support of vocational and technical education programs. Under the budget request, the Department would provide $7.2 million for these grants.

Higher Education Aid for Institutional Development

The Aid for Institutional Development programs, under Title III of the Higher Education Act of 1965, are designed to strengthen institutions of higher education that enroll large proportions of minority students and students from low-income backgrounds. The programs provide financial assistance to help institutions solve problems that threaten their ability to survive, improve their management and fiscal operations, build endowments, and make effective use of technology.

The Strengthening Tribally Controlled Colleges and Universities (TCCUs) program authorizes 1-year planning and 5-year development grants that enable these institutions to improve and expand their capacity to serve American Indian students. Under the budget request, the Department would award $23.8 million for activities to strengthen TCCUs. Since fiscal year 2001, a portion of funds has supported

construction and renovation activities, and the fiscal year 2005 budget request would provide approximately $11.8 million for these purposes.

The Strengthening Alaska Native and Native Hawaiian-Serving Institutions program authorizes 1-year planning and 5-year development grants that enable these institutions to improve and expand their capacity to serve Alaska Native and Native Hawaiian students. The Department's 2005 budget request includes $6.1 million for this program.

Special Education

Grants to States

The Special Education Grants to States program provides formula grants to meet the excess costs of providing special education and related services to children with disabilities. Of the funds allocated to the Department of the Interior, 80 percent is used for the education of children 5-21 years old and 20 percent is distributed to tribes and tribal organizations for the education of children 3-5 years old.

Under the budget request of $11.07 billion, the Department would provide approximately $83.2 million to BIA, more than a $1 million increase, to help serve approximately 7,600 Indian students.

Grants for Infants and Families

The Grants for Infants and Families program provides formula grants to assist States in implementing statewide systems of coordinated, comprehensive, multidisciplinary, interagency programs to make available early intervention services to all children with disabilities, aged birth through 2, and their families. An amount equivalent to 1.25 percent is allocated to the BIA. Under the 2005 budget request of $466.6 million, the BIA would receive approximately $5.8 million.

Vocational Rehabilitation

The Vocational Rehabilitation (VR) State Grants program provides services for individuals with disabilities, consistent with their abilities, capabilities, interests and informed choice, so that these individuals may prepare for and engage in, gainful employment. Nationally, this program provides services to about 9,000 American Indians with disabilities each year. In addition, the Rehabilitation Act requires that between 1.0 percent and 1.5 percent of the funds appropriated for the VR State Grants program be set aside for competitive grants to Indian tribes to provide vocational rehabilitation services to American Indians with disabilities living on or near reservations. For 2005, the Department requests approximately $2.7 billion for the VR State Grants program. The amount set aside for grants to Indian tribes would be approximately $32 million and would serve over 5,000 American Indians with disabilities.

Conclusion

The 2005 budget request for the Department of Education programs serving American Indians, Alaska Natives, and Natives Hawaiians, supports the President's overall goal of ensuring educational opportunities for all students.

Thank you for the opportunity to appear before the Committee. My colleagues and I will be happy to respond to any questions you may have.

DEPARTMENT OF EDUCATION

Office of the Under Secretary

Biographical Sketch

NAME	Victoria L. Vasques
POSITION	Deputy Under Secretary and Director, Office of Indian Education, U.S. Department of Education
EXPERIENCE	
2001 – 2002	Executive Director, White House Initiative on Tribal Colleges and Universities, U.S. Department of Education
1993 – 2001	Director of Indian Affairs, Office of Congressional and Intergovernmental Affairs, U.S. Department of Energy
1989 – 1993	Director of Scheduling & Logistics, U.S. Department of Energy
1988 – 1989	Executive Assistant & Director of Boards & Commissions, The American Bicentennial Inaugural
OTHER WORK EXPERIENCE	
1976 – 1988	Coordinator of Logistics & Scheduling, Commission on Executive, Legislative & Judicial Salaries
	Coordinator of Logistics & Scheduling, Presidential Commission on the HIV Epidemic
	Project Officer, White House Conference for a Drug Free America
	Special Assistant, Office of Intergovernmental & Interagency Affairs, U.S. Department of Education
	Deputy Director, White House Conference on Small Business
	Executive Assistant, Presidential Commission on Indian Reservation Economies

Special Assistant, Office for Civil Rights, U.S. Department of Education

Consultant, National Congress of American Indians

Counselor & Classroom Teacher, Capistrano Unified School District, California

Education Program Specialist, Office of Indian Education, U.S. Department of Education

Indian Education Project Director, Whittier Union High School District, California

PUBLICATIONS

Department of Energy, American Indian & Alaska Native Tribal Government Policy Booklet (co-wrote)
Department of Energy Working With Tribal Nations Booklet (contributed)

OUTSIDE ACTIVITIES

National Speaker at Elementary & Secondary Schools, *The American Indian Today*
Member of the Decade Society (charitable organization, Washington, DC)
Member of the St. Mary's Home School Association (fundraising organization, Alexandria, VA)

HONORS AND AWARDS

American Indian Woman of the Year, 1985
Department of Energy Special Act Cash Award, 1992

EDUCATION

California State University, Fullerton, Human Services, BS 1976
University of California, Irvine, Multiple and Single Subject Teaching Credentials 1981

DEPARTMENT OF EDUCATION

Office of the Under Secretary

Biographical Sketch

NAME	:	Cathie L. Martin
POSITION	:	Group Leader, Office of Indian Education Office of the Under Secretary, U.S. Department of Education
EDUCATION	:	BS, Elementary Education, Northeastern State University (Tahlequah, Oklahoma), 1973 M.Ed., Northeastern State University (Tahlequah, Oklahoma), 1975
EXPERIENCE		
2002 – Present	:	Group Leader, Office of Indian Education, U.S. Department of Education
2001 – 2002	:	Acting Director, Office of Indian Elementary, Office of Elementary and Secondary Education, U.S. Department of Education
1999 – 2001	:	Assistant to the Director, Office of Indian Education, U.S. Department of Education
1989 – 1999	:	Supervisory Education Specialist, Office of Indian Education, U.S. Department of Education
1984 – 1989	:	Supervisory Management Analyst, Office of Management, Bureau of Indian Affairs, Washington, DC
1978 – 1984	:	Education Program Specialist, Office of Indian Education Programs, Bureau of Indian Affairs, Washington, DC
1975 – 1978	:	Learning Disabilities Teacher (Supervisory), Bureau of Indian Affairs, Wyandotte, Oklahoma
1974 – 1975	:	Speech Therapist, Miami, Oklahoma
1973 – 1974	:	Speech Therapist, Seneca, Missouri
CERTIFICATIONS	:	Speech Therapy, Missouri (Lifetime) Learning Disabilities, Oklahoma

DEPARTMENT OF EDUCATION

Office of the Deputy Secretary

Biographical Sketch

NAME	: Lonna B. Jones
POSITION (April 1999 - Present)	: Acting Director, Elementary, Secondary, and Vocational Analysis Division, Budget Service

EXPERIENCE

1990 - 1999	: Senior budget analyst, Elementary, Secondary, and Vocational Analysis Division, Budget Service
1989 - 1990	: Consultant to foundations and nonprofit organizations
1987 - 1989	: Program associate, Special Projects, Rockefeller Brothers Fund
1975 - 1987	: Education program specialist, elementary and secondary education grant programs, U. S. Department of Education (and U.S. Office of Education)
1983 - 1986	: Director, national public-school awards program, Rockefeller Brothers Fund (on leave from the Department)
1978 - 1980	: Coordinator, arts education initiative, Office of the Commissioner of Education
1970 - 1975	: Consultant, Academy for Educational Development, American Telephone and Telegraph Co., and other organizations
1964 - 1970	: Staff member, Academy for Educational Development and President's Commission on Instructional Technology

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