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FISCAL YEAR 2007 BUDGET

HEARING

BEFORE THE

COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

ON

OVERSIGHT HEARING ON THE PRESIDENT'S FISCAL YEAR 2007 BUDGET REQUEST FOR INDIAN PROGRAMS

FEBRUARY 14, 2006
WASHINGTON, DC

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FISCAL YEAR 2007 BUDGET

TUESDAY, FEBRUARY 14, 2006

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

The committee met, pursuant to notice, at 2:35 p.m. in room 106 Dirksen Senate Office Building, Hon. John McCain (chairman of the committee) presiding.

Present: Senators McCain, Akaka, Dorgan, Johnson, Murkowski, and Thomas.

STATEMENT OF HON. JOHN MCCAIN, U.S. SENATOR FROM ARIZONA, CHAIRMAN, COMMITTEE ON INDIAN AFFAIRS

The CHAIRMAN. Good afternoon. Let me begin by applauding the Administration for eliminating earmarks in the President's budget and commending efforts to reduce ineffective or inefficient spending. But while we must all be concerned for our fiscal future and must make tough choices, we cannot renege on the Federal Government's trust and moral obligations to Indians.

In evaluating the proposed budget against this backdrop, I am deeply concerned that the funding for the earmarks was simply eliminated, rather than redirected to continue supporting the Indian programs or services which already experience severe underfunding.

I am also concerned that programs deemed non-essential or duplicative by the Administrative were eliminated in their entirety without consulting with Indian tribes or this committee, without a realistic assessment of existing or available alternative services and without evaluation of the impacts upon the Indian recipients, especially children.

For example, I am troubled that even though the latest census stat indicates that a majority of Indians live in urban areas, the funding for urban Indian health programs, which have been in existence for over 30 years, was eliminated. The Administration has indicated that other services may be available, primarily from the community health centers.

We all know that community health centers are badly underfunded, but no information, data or statistics were provided to support such a drastic change in policy. Without such information, we cannot begin to determine whether CHC's have the capacity to treat a whole new patient population with culturally specific needs, much less determine whether shifting Indian patients from Indian

clinics will meet the long-term health requirements of this population.

As a fiscal conservative, I worked many years to make our government more effective and less wasteful in determining where to make cuts in a vast array of sometimes gilded Federal programs. However, we must remain mindful of our obligation to Native Americans who remain the very poorest in our country. We must carefully review changes in programs and policies to ensure that we endeavor to meet our responsibilities.

I think my friend, Senator Dorgan, would agree with me that sometimes we see these budgets come over with cuts that they know are going to be restored by the Congress. It is a game as old as there is as long as we have been doing business. But I think that some of these cuts clearly send out the wrong signal to Indian country as to what our belief and the fulfillment of our obligation to Native Americans is all about.

Senator Dorgan.

STATEMENT OF HON. BYRON L. DORGAN, U.S. SENATOR FROM NORTH DAKOTA, VICE CHAIRMAN, COMMITTEE ON INDIAN AFFAIRS

Senator DORGAN. Mr. Chairman, thank you very much.

Let me thank all of the witnesses who are coming today before the committee.

We have a responsibility to provide our advice to the Budget committee on budget issues. I would share the chairman's observation about some of these matters. I think sometimes we have recommendations to zero out funding with the full expectation that Congress would not allow that with certain programs, and Congress itself will restore the funding.

I do want to point out that I think that we have in this country some people locked in a cycle of poverty, most particularly on Indian reservations with a full-scale crisis in health care, in education, in housing, with unmet needs that are very substantial. The budget issues reflects a set of priorities. It answers the question, what are the priorities for this country. I have very substantial disagreements with a number of the priorities in the President's budget.

From previous discussions we have had, Mr. Chairman, on this committee, I know that about 40 percent of the health care needs are unmet, roughly 40 percent of the health care needs of Native Americans are unmet needs. It is a trust responsibility we have for Native Americans and yet we sit here, the witnesses sit there, the Administration is down the street a ways, and none of us should be or will be content with 40 percent of the health care needs being unmet. It is a crisis.

How many children today are not going to get health care when they need it? And we know they are not going to get health care. So we have a responsibility to do something about this, this committee, the Budget Committee, the Administration. The budget is simply a starting point. This opportunity to have a full discussion about that is a unique and good opportunity.

I look forward to hearing the witnesses, Mr. Chairman. I did want to say there is a pent-up passion of mine for us to get serious

about the third world conditions that exist in some parts of our country, notably Indian reservations, where a lot of people who need health care are not getting it, where kids are going to schools that are in disrepair, and where opportunities for housing are not the same as in other parts of the country. We can do something about that if we have the will. There is a way to do it, and I hope that at the end of this process this year, we will make some progress on all of those issues.

The CHAIRMAN. Senator Thomas.

STATEMENT OF HON. CRAIG THOMAS, U.S. SENATOR FROM WYOMING

Senator THOMAS. Thank you, Mr. Chairman.

I just simply want to agree with what both of you have said. I think it is very important for us to take a look at these budgets. Obviously, we have some times of great need. I think there is special need often in Indian country and we need to take a look at that.

On the other hand, we have the spending of the money. So it is a real challenge, and thank you for starting us on that road today.

The CHAIRMAN. Senator Johnson.

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

Senator JOHNSON. Thank you, Mr. Chairman, and thank you to the members of the panel.

I come to this hearing with a little bit of a different perspective in that besides this seat on the Committee on Indian Affairs, I also serve on the Budget Committee and the Appropriations Committee. Budgets are fascinating documents because it is when you get to the budget document that rhetoric and reality begin to part ways, because it is the budget that clarifies where priorities, where values truly lie. We have never had any shortage of rhetoric directed toward improving the lot of Native Americans, but the budget too many times has fallen far short of reflecting what that rhetoric would suggest.

I am concerned about underfunding in health care and education, among others. One of the things that I think we need to do a much better job of is directing resources in a manner which would spawn a much stronger private sector economy in Indian country, because it is apparent to me after my years in the Congress in both the House and the Senate that we simply cannot rely year after year on the Federal Government to fully live up to its treaty and trust responsibilities, because it has fallen woefully short every year that I can think of. We need to find ways to diminish that dependency that we have had too much of, but that does not come free. That involves investment in education and infrastructure and other needs in Indian country as well.

While we are at it, I think it will continue to be important that this Congress maintains a consultative respectful relationship with the tribes involved. This should not be a top-down decisionmaking process. This needs to be one that is consultative and reflective of the sovereignty and the government-to-government relationship

which does indeed exist or should exist between our tribes and the Federal Government.

So I am grateful for the Chairman holding this hearing. I look forward to a much closer analysis of the budget that is being proposed to us. It is true that we can make changes, but it is also true that the pool of discretionary domestic funding that is available continues to shrink year after year after year, forcing decisions that should not have to be made.

So thank you, Mr. Chairman, for conducting this hearing.

The CHAIRMAN. Thank you very much.

Senator Murkowski.

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

Senator MURKOWSKI. Thank you, Mr. Chairman. I do appreciate the hearing this afternoon.

To all of you gathered here this afternoon, thank you for joining us.

I do have a full statement that I want to submit to the record, Mr. Chairman.

The CHAIRMAN. Without objection.

Senator MURKOWSKI. Just a few comments before we move to the panel. I want to take 1 minute to acknowledge Ryan Wilson, who is the president of the National Indian Education Association. They are having their annual legislative meeting here in Washington. I know that several of our colleagues are going to be speaking at the meeting tomorrow morning, as I will.

Yesterday, Ryan delivered a State of Indian Education address. One of his key messages was that it is crucial for this committee to travel to Indian country so that we can hear from those who work on the frontlines of Indian education, so that we can witness the conditions of the facilities.

But perhaps more importantly, that we can interact with Native young people and let them know that somebody cares about their future, that somebody cares about their education. This is an important idea, and I would hope that the committee would be able to accommodate it.

I am still looking forward to an opportunity to have Secretary Spellings travel to the State of Alaska as former Secretary Paige had an opportunity to do a couple of years ago, where he was able to witness not only some of the creativity of our teachers and administrators in the rural areas, but understand some of the challenges in implementing Federal programs such as No Child Left Behind in very isolated rural places. So I will again extend the invitation through you, Ms. Marburger, to Secretary Spellings to again see for herself first-hand.

I want to take a few minutes to say a few words about the proposed budget. I want to acknowledge the Bureau of Indian Affairs' [BIA] efforts to fund the contract support costs. The Indian Health Service [IHS] can be proud of the fact that it has obtained funding to keep up with the population changes and medical inflation. I also note a flight increase in the funds proposed for rural sanitation.

We may quarrel about the sufficiency of these increases. We still do not have the 10 percent annual increase in IHS clinical services that I have been fighting for since I came to the Senate, nor is the Federal Government spending what it should for the care of Indians. It is a recognition that we have to do what we can when it comes to that care.

I have to hand it to you, Dr. Grim, and to Mr. Cason, for working the system to make the best that you can of a tough budget. But there are some provisions that I do remain concerned about. The IHS' facility construction program, what was supposed to be a 1-year pause in the program is emerging to be a 2-year freeze. I am concerned. I want to know what the effect of these cuts will be on the construction of the new in-patient facilities at Barrow and Nome. These are number one and two on the priority list. That is something that we are looking at with great concern.

Also, the proposal to discontinue funding for urban Indian health programs is also disconcerting. We do not necessarily have the urban programs in Alaska, but the urban clinics in the western United States serve numerous Alaska Natives who have relocated to other parts of the country, looking for employment and a better life. So it is troubling when one considers that some of the clients served by these urban clinics were encouraged to leave their reservations in the 1950's as part of this policy of relocating Indians out of Indian country.

I do have some concerns, again I would mention the Indian education, the Johnson O'Malley program, which has proved to be a vital cultural link for Native children receiving education in the public school system. It is proposed for elimination. The Office of Indian Education, you have to wonder what specifically is happening there.

We had very able leadership under Assistant Deputy Secretary Vasquez. The office had a clear reporting relationship to Secretary Paige. It is now being headed by an acting director, as Ms. Vasquez has left, but it is kind of buried in there in the Office of Elementary and Secondary Education. So we look to work with you to better understand how these can all be brought together.

There is lots to talk about today, Mr. Chairman. Of all the hearings that this committee conducts in this year, this one is probably the most important to Indian country. So I look forward to hearing from those who have agreed to be with us this afternoon, and to share some of the concerns that we have as we talk about our obligations.

Thank you.

[Prepared statement of Senator Murkowski appears in appendix.]

The CHAIRMAN. Our panel of witnesses, some we have had the opportunity of visiting with on numerous occasions, and there are others who are new here today.

James Cason, who has been here on a number of occasions, is the associate deputy secretary of the Department of the Interior. He is accompanied by Ross Swimmer, an old friend who is the special trustee for American Indians. Charles W. Grim is the director of the IHS, the Department of Health and Human Services. He is accompanied by Robert G. McSwain, the deputy director of the IHS; Craig Vanderwagen, who is the acting chief medical officer of the

IHS; and Gary Hartz, who is director of the Office of Environmental Health and Engineering, Department of Health and Human Services.

Darla Marburger is deputy assistant secretary for policy, Office of Elementary and Secondary Education. She is accompanied by Cathie Carothers, who is the acting director of the Office of Indian Education; and Tom Corwin, who is the director of the Division of Elementary and Secondary Vocational Analysis in the Department of Education.

Orlando Cabrera is the assistant secretary, Office of Public and Indian Housing, Department of Housing and Urban Development. He is accompanied by Roger Boyd, who is the deputy assistant secretary of Public and Indian Housing, Office of Native American Programs; and Paula Blunt, who is the general deputy assistant secretary, Public and Indian Housing, Office of Native American Programs at the Department of Housing and Urban Development.

Finally, but not least, Regina Schofield is the assistant attorney general, Office of Justice Programs at the Department of Justice.

Welcome. We will begin with you, Mr. Cason.

STATEMENT OF JAMES CASON, ASSOCIATE DEPUTY SECRETARY, DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY ROSS SWIMMER, SPECIAL TRUSTEE FOR AMERICAN INDIANS

Mr. CASON. Thank you, Mr. Chairman and members of the committee.

I am here representing the Department of the Interior, along with Ross Swimmer, who is the Special Trustee for American Indians. Ross and I have concluded that we are not going to offer an opening statement beyond just introduction, to afford the committee the most time to ask us questions and respond to your interests.

Thank you.

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

The CHAIRMAN. Maybe a general comment on the budget submission, Mr. Cason, might be appropriate, if you had just a brief comment.

Mr. CASON. Okay. Just briefly for both OST and the Department, the Indian Affairs budget is roughly even. We are about $70 million short of the 2006 enacted amount. Of that amount, most of that falls into the category of school construction, $47 million is the equivalent of a school that is not on the replacement list, in order to make our budget balance.

There were a lot of additions and deletions in our budget in Indian Affairs. What we tried to do is take a look at the entirety of the Indian Affairs budget, identify the things that we believe to be core systems in our budget or core requirements in our budget, and then identify all the other secondary and tertiary pieces of the budget and look to maintain the integrity of all the core systems, use secondary and tertiary programs to make new investment in core systems, or ensure that no reduction occurred in them, and then use as tradeoffs secondary and tertiary programs.

Most of those ended up being supplemental activities for core systems, or very small bit programs that did not have very much of an investment.

We have a big commitment to Indian education embodied in our budget. That is very important to us, and we are spending a lot of time and effort on that program area. As the committee knows, we are spending a lot of time on trust and our trust responsibilities. Those are the two principal drivers of the Indian Affairs budget.

Ross, did you want to make any comment on yours?

Mr. SWIMMER. Just briefly. Our budget is basically the same, with a small reduction in the operating side of it. We have asked for an increase on behalf of the pass-through that we give to the BIA for the Indian Land Consolidation Program of approximately $21 million to increase the amount of funding for that program to acquire the very small fractional interest in Indian country, and make the land much more useful, and decrease the cost of having to deal with these very small fractional interests.

We have what I believe is the funding to proceed with the development of the fiduciary trust model, which is in essence a fiduciary trust operation within the Department of the Interior to administer the trust. We continue to administer that model, to implement the model, mainly through conversion of systems, cleanup of records, and reconciliation efforts. Our budget is also of course committed to the historical accounting through the Office of Historical Trust Accounting.

Of the total of our budget of approximately $244 million, the amount that the Special Trustee actually controls for its budget is about $114 million. The rest of it is given out to other offices or bureaus within the Department of the Interior to do other trust activities such as the Oken Ota.

Thank you.

The CHAIRMAN. Thank you.

Dr. Grim, welcome back.

STATEMENT OF CHARLES W. GRIM, DIRECTOR, IHS, DEPARTMENT OF HEALTH AND HUMAN SERVICES, ACCOMPANIED BY ROBERT G. MCSWAIN, DEPUTY DIRECTOR; CRAIG VANDERWAGEN, ACTING CHIEF MEDICAL OFFICER; AND GARY HARTZ, DIRECTOR, OFFICE OF ENVIRONMENTAL HEALTH AND ENGINEERING

Mr. GRIM. Thank you, Mr. Chairman and members. I appreciate your time today.

I am pleased to have the opportunity to present the President's fiscal year 2007 budget request for the IHS. I would like to summarize my written statement and ask that it be entered into the record.

The CHAIRMAN. Without objection.

Mr. GRIM. First, I want to be up front with you. I do not think it was missed in any of your opening comments that this budget reflected some hard choices that needed to be made about where funds can be used most effectively to improve the health status of American Indian and Alaska Native people. To meet the President's goal of cutting the deficit in half by 2009, some well-inten-

tioned programs have been reduced or eliminated in the overall budget and IHS was not immune to this.

This budget reflects our effort to make those difficult choices in the wisest way. Overall, however, the request for IHS represents the commitment of the Administration to protect programs that have proven to be effective.

While the overall discretionary spending within DHHS is proposed to be reduced by 2.1 percent, the request for IHS is a 4.1 percent increase or $125 million over the fiscal year 2006 enacted level. The increase is direct funding to the highest priorities that were expressed by tribes during the budget consultation processes we held. They told us that funding of items to maintain the current services is where funding is needed first.

Therefore, this budget includes an increase of $134 million to cover pay raises for IHS and tribal staff, for the increased costs of delivering health care, and for increased services resulting from a growing American Indian and Alaska Native population.

There is also an increase of $32 million included for new staffing and operating costs at four new health centers that will be opening during fiscal year 2007. There is $11 million that is included to cover the increased costs of implementing the department's unified financial management system within Indian Health Service. I am very pleased that our budget had that level of increases.

On the other hand, the President's budget for the IHS contains some difficult choices, as I mentioned earlier, but I want to acknowledge that the decisions made are consistent with the responsible budget principles that were applied throughout the President's budget request.

There are 141 programs that were proposed for termination or reduction in the President's budget, some that were proposed because performance had not been satisfactory, and other that were proposed because their purposes may have been addressed in other agencies.

The IHS's Urban Indian Health Program was deemed to fall into that last category and therefore the budget request is that funding for this program be eliminated in fiscal year 2007. However, I want to add that the department is committed to ensuring that culturally sensitive health care services are available to American Indian and Alaska Native people who find themselves living in those urban areas.

Another area of hard choices we had to make was in the area of construction, as was noted by Senator Murkowski. The budget request for IHS health care facilities in 2007 is $17.7 million, which is a $20 million reduction from the fiscal year 2006 enacted level. That requested amount will complete one facility, the construction of the Phoenix Indian Medical Center Southwest Ambulatory Care Center. Construction on that facility is scheduled to begin this fiscal year with fiscal year 2006 appropriated funds.

While the replacement of aging facilities is an important area for expanding access to care, this budget is intended to ensure that the basic needs of all Indian Health Service and tribal programs throughout the IHS are met. So we chose to focus during a tight budget year on offering treatment and not building infrastructure.

In addition, the request for 2007 is consistent within HHS's overall facilities management strategy in that no new construction is funded in fiscal year 2007.

In closing, I just want to reiterate that this budget supports tribal priorities to maintain current services funding levels of our system and the budget will ensure continued access to high quality medical and preventive services for our population. It reflects the continued Federal commitment to the American Indian and Alaska Native people.

Thank you for your time. I would be pleased to answer any questions you might have.

[Prepared statement of Dr. Grim appears in appendix.]

The CHAIRMAN. Ms. Marburger, welcome.

STATEMENT OF DARLA MARBURGER, DEPUTY ASSISTANT SECRETARY FOR POLICY, OFFICE OF ELEMENTARY AND SECONDARY EDUCATION, DEPARTMENT OF EDUCATION, ACCOMPANIED BY CATHIE CAROTHERS, ACTING DIRECTOR, OFFICE OF INDIAN EDUCATION; AND THOMAS CORWIN, DIRECTOR, DIVISION OF ELEMENTARY AND SECONDARY VOCATIONAL ANALYSIS

Ms. MARBURGER. Thank you, Mr. Chairman and members of the committee. On behalf of Secretary Spellings, thank you for the opportunity to discuss our fiscal year 2007 budget request for the Department of Education programs serving American Indians and Alaska Natives.

My name is Darla Marburger and I am deputy assistant secretary in the Office of Elementary and Secondary Education. I am joined by my colleagues. After I give you a summary of my written remarks, we will be happy to answer any questions that you may have.

The Bush administration is strongly committed to ensuring that American Indians and Alaska Natives benefit from national education reforms and receive every opportunity to achieve to high academic standards. Recent data suggest that our investments in Indian education are beginning to pay off.

We know that more Indian students are pursuing post-secondary education than ever before. The number of Indian students enrolling in colleges and universities is up. American Indian and Alaska Native students are scoring higher than they have in the past in the national assessment of educational progress. They are also scoring higher than other minority groups.

However, significant achievement gaps persist between American Indian and Alaska Native student populations and the general population. These students continue to be subject to significant risk factors that threaten their ability to improve their academic achievement and their general well being, and continue to need support from the Federal programs that address the specific educational needs of the population.

The 2007 budget request for the Department of Education builds on the success of the No Child Left Behind Act and supports the President's commitment to provide resources to help improve educational opportunities for all students. American Indian students will continue to benefit from the implementation of the No Child

Left Behind Act, as well as new initiatives, including the $1.5 billion High School Reform Program to improve the quality of secondary education, and the President's $380 million American Competitiveness Initiative to give students a strong foundation in mathematics and science skills needed to compete in the 21st century economy.

Overall, department programs would under the fiscal year 2007 budget provide approximately $1 billion in direct support specifically for Indians and Alaska Natives. In addition, significant funds are provided to Indian students who receive services through broader Federal programs such as the ESEA Title I grants to local educational agencies and the IDEA State grants.

The BIA would receive over $215 million of Department of Education funds to support Indian education programs operated by that agency. We work closely with the BIA on program implementation issues and to improve the quality of the services the agency provides to Indian students.

The President's request for the department's Indian education programs for fiscal year 2007 is $118.7 million. We are requesting $95.3 million for Indian Education Formula Grants to local education agencies. These grants supplement the regular school program, helping Indian children improve their academic skills and participate in enrichment programs that would otherwise be unavailable to them.

Our request for special programs for Indian children is $19.4 million. Approximately $5.7 million would support an estimated 23 demonstration grants to fund school readiness and for preschool-age children, and also to prepare secondary students to succeed in post-secondary education.

In addition, the 2007 request would provide $9.2 million to support the American Indian Teacher Corps. This program trains Indian individuals for teaching positions in schools that have a high concentration of Indian students. We have a similar program that is aimed at training administrators to serve in these same schools.

We are also requesting $4 million for research evaluation, data collection and technical assistance that is related to Indian education. This is an area where in the past we have not been able to get a lot of said information. The data are very important to us. Funds will continue to support data collections initiated in earlier years, such as the special NAEP program that we have in place that is designed to collect data on the educational experiences of American Indian and Alaska Native students and the role of Indian culture in their education.

The other purpose of the program is to promote ongoing program improvement for Indian education grants to LEA's and special programs.

Our budget request for the first time would provide funding of $200 million for formula-based title I school improvement grants. These funds would help ensure that States receive resources to provide effective improvement support to LEA's and schools that have been identified as needing improvement. Under this program, the BIA would receive approximately $1.4 million for school improvement activities.

This is just a brief overview, of course, of our budget activities. The 2007 budget request for the Department of Education programs that are serving American Indians and Alaska Natives supports the President's overall goal of ensuring educational opportunities for all students.

Thank you once again for this opportunity. At this time, I am happy to take any questions that you may have.

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

The CHAIRMAN. Thank you very much.

Ms. Marburger, your complete statement will be made part of the record. Yours, too, Mr. Cabrera.

Ms. MARBURGER. Thank you.

STATEMENT OF ORLANDO CABRERA, ASSISTANT SECRETARY, OFFICE OF PUBLIC AND INDIAN HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, ACCOMPANIED BY ROGER BOYD, DEPUTY ASSISTANT SECRETARY FOR NATIVE AMERICAN PROGRAMS; PAULA BLUNT, GENERAL DEPUTY ASSISTANT SECRETARY

Mr. CABRERA. Thank you, Mr. Chairman.

Good afternoon, Mr. Chairman, Mr. Vice Chairman and distinguished members of the committee. Thank you for inviting me to address your committee.

I am here to outline President Bush's fiscal year 2007 budget for HUD's Indian Housing and Community Development Programs, and also to answer any questions that you may have.

My name is Orlando Cabrera and I am the assistant secretary for Public and Indian Housing at HUD. As assistant secretary, I am responsible for the management, operation and oversight of HUD's Native American programs. These programs are available to all 561 federally recognized Indian tribes, Alaska Natives, and Native Hawaiians. We serve these groups either directly or through their tribally designated housing entities, which I will refer to from now on as TDHE's.

The Office of Public and Indian Housing provides grants and loan guarantees designed to support affordable housing and community development in Indian country. Seizing momentum is key as we continue to work together toward creating more and better housing for Indian country and the Hawaiian Homelands.

At the outset, let me reaffirm this department's support for the principle of government-to-government relations with federally recognized Native American tribes. HUD is committed to honoring this core belief in our work with all of our stakeholders.

The President believes in an ownership society. HUD's Native American and Native Hawaiian loan guarantee programs are the engines that drive HUD's homeownership efforts in Indian country and Hawaii. For example, during fiscal year 2005, tribes and their TDHE's used Indian housing block grant funds to build, acquire, or rehabilitate 1,050 rental units and 5,455 homeownership units. Each of these became a home to a Native American family.

Let me now turn to the President's budget request for 2007. This budget proposes a total of $695,990,000 specifically for Native American and Native Hawaiian housing and community development; $625.7 million is proposed under the Native American Hous-

ing Assistance and Self-Determination Act of 1996, otherwise known as NAHASDA. Of that amount, approximately $620 million is for direct formula allocations through the Indian Housing Block Grant Program.

The President's budget proposes $1.98 million in credit subsidy for NAHASDA's Title VI program that will in turn encourage $14.9 million in private sector investment. The President proposes to fund the Indian Community Development Block Grant Program at $57.4 million. The Indian CDBG Program will continue to be administered by HUD's Office of Native American Programs. $5.9 million in credit subsidies is proposed for the section 184 Indian Housing Loan Guarantee Fund, which will provide $251 million in loan guarantee authority.

This budget also recognizes the unique housing needs of Native Hawaiian families eligible to reside on the Hawaiian Homelands. HUD continues to address those needs. The Native Hawaiian community would receive $5.9 million for the Native Hawaiian Housing Block Grant Program, and $1 million for the section 184A Native Hawaiian Loan Guarantee Fund, which will leverage approximately $43 million in loan guarantees.

Finally, there is a total of $3.8 million available for training and technical assistance to support the Indian and Native Hawaiian Housing Block Grant Programs.

I would like to focus on one program, if I might, which is HUD's section 184 program, which addresses the special needs of Native Americans, making it possible for Native American families to achieve homeownership with market-rate financing. Its corollary for Native Hawaiians is the Section 184A program. These comments would apply to both.

Overall, the section 184 program has been a great success and the department believes that this program will continue to play a vital role in reaching the President's commitment to create 5.5 million minority homeowners by the end of this decade. To improve the visibility of the program in fiscal year 2005, HUD decentralized its outreach efforts to tribes and lenders, which enabled the department to connect with more of our clients at the local level.

The new approach resulted in 634 new homeowners and more than $100 million in loan commitments in fiscal year 2005. The loan commitment volume is up 68 percent over the year-end totals for 2004. This trend has continued in fiscal year 2006, with 224 loan guarantees worth $28.2 million completed in the first quarter of fiscal year 2006, a 58-percent increase over fiscal year 2005.

I hope that this adequately summarizes our budget for Native American, Alaska Native and Native Hawaiian programs at HUD. Thank you for your attention. This concludes my prepared remarks and I stand ready to answer any questions you may have.

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

The CHAIRMAN. Thank you very much.

Ms. Schofield.

STATEMENT OF REGINA SCHOFIELD, ASSISTANT ATTORNEY GENERAL, OFFICE OF JUSTICE PROGRAMS, DEPARTMENT OF JUSTICE

Ms. SCHOFIELD. Thank you, Mr. Chairman, Vice Chairman Dorgan and members of the committee.

I am Regina Schofield, the assistant attorney general for the Office of Justice Programs. On behalf of the Attorney General and the Department of Justice, I stand here today ready to discuss the Department's proposed fiscal year 2007 budget priorities for Indian country.

The needs of Indian tribal governments in combating crime and violence continue to be great, especially in the areas of substance abuse, domestic violence, and other violent crimes. I share the administration's commitment to addressing these needs and have made the government-to-government improving relationship between tribes and the Federal Government a personal priority. Since I came to OJP 8 months ago, I have set up a Justice Programs Council on Native American Affairs which will coordinate OJP's work with tribes and serve as a liaison with other Justice components on tribal issues.

Another new tool that will soon become available is the DOJ websites specifically created for Indian country, which will feature information on a variety of Justice issues, as well as grant funding and training. These efforts are designed to improve communication and to help build tribes' capacity to create and leverage resources.

Although this budget request does not provide an increase of Federal dollars, it does provide tribal officials with flexibility in how to spend these dollars and the tools to spend them most effectively. For example, one of the many challenges that Indian tribes face is collecting reliable data on criminal justice-related issues. We have requested approximately $39 million for the National Criminal History Improvement Program, a portion of which can help tribes improve data collection.

Tribes and States must coordinate in collecting reliable data and ensuring that this data is readily available. This is especially true for the several tribes that cross multiple jurisdictions such as the Navajo Nation in Arizona, New Mexico, Utah, and the Standing Rock Tribe in the Dakotas.

Another of our goals is to make it easier for tribes to apply for and use our grant funding. This committee was instrumental in the passage of several pieces of legislation regarding tribal self-governance and self-determination that have permitted tribes greater flexibility. This has allowed tribes to demonstrate their ability to effectively administer Federal programs. The department is requesting $31.1 million for the consolidated tribal grant program, which can be used to hire tribal law enforcement, prosecutors, or judicial officials, as well as to purchase or upgrade equipment.

For the drug courts program, we have requested $69.2 million and we have already seen the impact that drug courts can have on tribal communities. When the First Lady traveled to Phoenix to promote her Helping America's Youth initiative last April, she met with many Indian youth and tribal leaders. She spoke with a girl who completed the Salt River Pima-Maricopa Indian community's

juvenile drug court program and is now working toward completing her GED.

We are also working on building tribes' capacity to combat domestic violence. We are combining the Office on Violence Against Women funds into a single tribal grant program so that only one application will be necessary. In addition, the new DOJ reauthorization increases the tribal set-aside from 5 percent to 10 percent of available funds for OVW grants. We anticipate that no less than $25 million will be available for assistance to tribes from the fiscal year 2007 request.

We have worked with the Boys and Girls Clubs of America for more than 15 years to serve young people in tribal communities to reduce juvenile crime. I believe that the Boys and Girls Clubs' outreach to young people can and should be expanded. We have requested $59.5 million to continue this work.

The department will honor our Federal trust responsibility and continue to assist tribal justice systems in their effort to promote safe communities. Both our current activities and our fiscal year 2007 proposed budget reflects these priorities.

I would welcome the opportunity to answer any questions. Thank you.

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

The CHAIRMAN. Thank you very much, Ms. Schofield.

Mr. Cason, the budget request for trust resources management proposes a decrease of over $10 million for trust resources management from last year's enacted level of $152 million, but proposes an increase of $11 million in trust real estate services. What is the difference? What am I missing here?

Mr. CASON. Mr. Chairman, the increases in the trust real estate services is to get to a fundamental problem that we have. That is to ensure that we have clear and accurate and contemporaneous information about ownership of trust assets. As I have testified in other forums, we have probably the largest trust in the world, with 56 million acres, 45 million of which belongs to tribes and a little over 10 million that belongs to individuals.

One of the things that we are encountering is two serious backlog problems. The first is with probate, that when we have Indian trust assets, we are responsible for probating the trust assets upon the death of the owner. We have a backlog of probates that date back to the 1890's. We have open probates in every decade since the 1890's. That is clearly an unacceptable position to be in.

Families who are the intended recipients of probated trust assets need to get their estates probated in a timely fashion and that is not happening. So we have put more resources there.

The other major problem is on trust real estate activities, where we have not entered the information about encumbrances and trust transactions in a timely fashion. So we have a backlog there, too, that we are investing in eliminating.

The CHAIRMAN. Dr. Grim, I see that the Urban Indian Health Program has been zeroed out. It is my understanding, then, it is expected that Native Americans would take advantage of community health centers. Is that the thinking here?

Mr. GRIM. That was one of the examples that we used in the budget justification, Mr. Chairman, that over the course of this ad-

ministration there have been large increases into HRSA's Community Health Center Program and Urban Indian Health Programs have, as you all know, historically been hovering around about 1 percent of our budget. So two of the precepts that we used within the department in the overall budget analysis was to look where we think the highest potential payoff in our instance for increases in health, and then looking at programs that might be supported elsewhere. CHC's were one example.

The CHAIRMAN. Is there a budget request from the Administration to increase by that level for Community Health Centers?

Mr. GRIM. No, sir; not specifically, but the budget request for the CHC's for 2007 is I believe a $188-million increase, although not a specific set-aside for urban Indian programs.

The CHAIRMAN. There are urban Indian health programs not only just a program, there are facilities that provide for urban Indian health care. What are you going to do with those facilities?

Mr. GRIM. There are a broad range of programs that are funded by the IHS under the Urban Indian Health Program. We have taken a look and done a number of analyses. With some programs, there will be relatively little impact by the removal of Indian Health Service funds. Many of them have gone after numerous State, county and other Federal grants over the years. Our funding percentage-wise is less than 10 percent of their overall total budget.

On the other hand, there are programs that are resourced by us at about the 80-percent level. Those, unless additional funding is found by their program administrators, will likely have to close. Most of those that are in that arena, although not all, are referral-type programs as well. We have a range from referral- and outreach-type programs that we fund, clear to a near fully ambulatory health care center delivery-type system. So there is a very broad range of types of programs we fund in that, and varying impacts by grantee.

The CHAIRMAN. I would argue in States like mine, Dr. Grim, it is a pretty significant impact, including major facilities.

Ms. Marburger, you eliminated the Johnson O'Malley Indian Education Program in the President's budget request. Right?

Ms. MARBURGER. Yes, sir.

The Chairman. $16 million. Was the $16 million eliminated from Johnson O'Malley moved to the Department of Education budget?

Ms. MARBURGER. That is actually not a program in the Department of Education.

The CHAIRMAN. Well, it is a BIA program.

Ms. MARBURGER. Yes.

The CHAIRMAN. It was eliminated, right? The Johnson O'Malley program was eliminated under the President's budget request. Right?

Mr. CASON. Mr. Chairman, I might help out. That is in the BIA budget and yes, that program was zeroed out. The discussions that we have had internally to the administration is the belief that overall that duplicated other efforts to supply funding to public schools and that as a matter of tradeoffs, that did not appear to be as high a priority as maintaining the core of BIA's education programs. So that did end up being a tradeoff.

The CHAIRMAN. The committee, Ms. Marburger, has received testimony that No Child Left Behind has imposed accountability standards without sufficient funding to meet those standards. It indicates approximately $1 billion in direct support is available for Indians and Alaska Natives in this year's proposed budget.

Will this funding enable Indian students to bridge those achievement gaps in BIA-funded and local schools with significant student populations to meet the requirements of No Child Left Behind?

Ms. MARBURGER. That is exactly what our budget is targeted to do. I think that one of the very positive aspects of that is the money that we are requesting specifically for SEA's and school and district improvement. For the first time, we will be providing money to them to help them provide the technical assistance at the local level to target their interventions and to really take a close look at how students are achieving so that they can tailor their program to better meet the needs of students.

The CHAIRMAN. Mr. Cabrera, do you know what the backlog is for Indian housing?

Mr. CABRERA. Mr. Chairman, just for a point of clarification, backlog in what respect? In terms of units?

The CHAIRMAN. Yes; or money.

Mr. CABRERA. I don't think we have any study right now that tells us what the backlog in terms of construction might be. We do have enormous amounts of progress in terms of 184's. So there has been a lot of demand for mortgages in Indian country over the last 2 years.

The CHAIRMAN. But you don't have a handle on what the requirement for Indian housing is in Indian country that is outstanding?

Mr. CABRERA. Most of the grants that are provided for Indian housing have a nexus to homeownership. Those, it is not so much grants, as the loan guarantees. So really what we measure is the number of units that are purchased by Native Americans in Indian country, and for that matter Native Hawaiians. In that respect, in the last couple of years, we have had an increase on the order of 60 percent over previously utilized numbers.

The CHAIRMAN. For the record, maybe you could provide us with that information.

Mr. CABRERA. Yes, sir.

The CHAIRMAN. Ms. Schofield, last year Congress appropriated funding in the Department of Justice budget to build one new Indian detention facility. The NCAI will testify that there is an immediate need to build at least 15 new detention facilities in order to address the ongoing detention facility crisis in Indian country, and it is a crisis. What is your response to that?

Ms. SCHOFIELD. I am aware that there is about $7 million left in that fund, and Senator, that is not enough money to build any new facilities. What I would like to do with the remaining funds is to make sure that we are providing some type of architectural and design specifications for tribes so that we can get the money out the door. But quite frankly, unless there is a lot more money put into the pot, you are not going to be able to build any new facilities.

The CHAIRMAN. Well, I would hope that you would request that additional money, Ms. Schofield.

Senator Dorgan.

Senator DORGAN. Mr. Chairman, thank you very much.

Ms. Schofield, as I understand it, in the Department of Justice you have taken tribal courts, tribal prison construction, tribal alcohol programs, tribal youth programs and zeroed them out, increased the tribal COPS program to $31.1 million, rolled it all into a block grant, and said you have more flexibility, right? Is that what you have done?

Ms. SCHOFIELD. Well, no, sir, we have not eliminated those programs. What we have done is requested a $31.1-million so that OJP and COPS can work together into streamlining all of those grants so that we can address more pressing needs. Previously, that money has been available only for law enforcement. If we are allowed to put together the $31.1-million as requested by the President, that money can be made available for meeting more pressing needs in Indian Country, and you can also move beyond hiring just law enforcement and move into helping build and improve on court operations, hiring judicial officials, and prosecutors.

Senator DORGAN. But last year, we funded those programs at $46 million. This year you are making $31 million available. Is that correct?

Ms. SCHOFIELD. Sir, I am not familiar with last year's budget.

Senator DORGAN. Well, the tribal courts, last year $7.9 million, and zeroed out this year; tribal prison construction $8.9 million and zeroed out this year; tribal alcohol $4.9 million and zeroed out this year. So as I add these up, last year we spent about $46 million. This year we will spent $31.1 million with more flexibility. That is not streamlining. That is a pretty significant cut in law enforcement areas, in my judgment. Wouldn't you agree?

Ms. SCHOFIELD. Well, I would hope that in one of the things I learned in previous positions in the Federal Government is the ability to have more grants at Indian country's disposal as opposed to sending people to one stream of funding. So my personal priority is to make sure that we are making sure that the tribes can tap into all sorts of funding availabilities at the Department of Justice.

Senator DORGAN. I don't understand that, because the area where they would tap into funding would be where we have appropriated money, and in the next panel we are going to have Mr. Garcia testify, the National Congress of American Indians, saying, "tribal leaders have consistently identified law enforcement, justice and homeland security as key concerns in the 2007 budget."

My only point is that I have traveled to many reservations, law enforcement is a serious issue, a significant problem. It looks to me like you are taking $46 million and turning it into $31 million, and portraying it to us as streamlining. It appears to me that is a very serious problem if you are trying to deal with law enforcement issues on reservations.

If you don't mind, I will submit some additional questions on that. I just think these law enforcement issues have to be adequately funded, and we will hear more from the next panel.

Let me ask Dr. Grim, what would it cost for us to provide sufficient funding so that we are staying even on health care costs for Native Americans in this coming fiscal year?

Mr. GRIM. We think the current budget proposal does that. We have money in every appropriate line item with either the medical inflator or the nonmedical inflator. We have increases for population growth. We have been seeing increases in our users annually and there is money in there for that. We have full payout costs for tribal and Federal programs. So we feel like the current budget is a budget that does just what you said, and in fact with the increased population growth funds, we feel that we will be able to serve 30,000 more beneficiaries this next year.

Senator DORGAN. Well, would I be wrong to say that we are serving somewhere in the area of 60 percent to 65 percent of the existing need for American Indians with respect to health care?

Mr. GRIM. That number comes from an internal study that we did, and used as a funding methodology for one of the line items that we have, the Indian Health Care Improvement Fund, that sometimes is funded. It was not funded in 2006, but we use that methodology, compared it against the Federal Employees Health Benefit package as a comparative analysis so that we would have something to judge all of our programs against. That figure comes from that, and we use that methodology internally for budget distribution.

Senator DORGAN. So we are funding somewhere around 60 percent to 65 percent. That means somewhere between 40 percent and 35 percent of the health care issues for Native Americans is unmet at this point. Would that be accurate?

Mr. GRIM. Relative to this one comparator.

Senator DORGAN. Well, if you make a comparison and come up with that number, that is the number. Is it reasonably accurate to say that 40 percent to 35 percent of the health care needs are unmet?

All right. My view of this submission is there is an increase to be sure, but as I look at this it appears to me the increase is somewhere just over 2 percent and again we will have testimony in the next panel, and I will refer to it in just 1 moment, suggesting that in order to just stay even, to maintain existing health care services and restore loss of buying power, meet the needs of the increased population, you would have to be requesting an increase of $485 million to existing services. Do you disagree with that?

Mr. GRIM. Yes, sir; the budget increase for the agency this year is a 4.1-percent increase, and because of the reductions that we noted on the facility side and the urban program side, when you net it out, it is actually a much higher increase than the $124-million, and all primarily directed at the health services side of the budget, as well as environmental health and engineering the sanitation facilities increases that were noted earlier.

So in a deficit reduction year of budgets, it is I think a very strong budget and one that does keep pace with the inflationary and population growth increases.

Senator DORGAN. Yes; well, this is not a deficit reduction budget in every area. There are some areas that are treated very generously.

First of all, let me say that I am pleased that these have not been cut. I am pleased there is an increase, but I would note that I think we are far short of serving the need that we are required

to serve, and I think with contract health and other issues, we are going to have to really think through with the Budget Committee what we do here.

You know and I know that we have circumstances with the contract health area where it is a life and limb description. That is the only way you get that service, if you are threatened with loss of life and limb.

Let me ask Ms. Marburger with respect to tribal colleges. My understanding is that we provide Federal support for tribal colleges at about half the rate of Federal support that goes to community colleges per student. Do you have any information about that?

Ms. MARBURGER. I would like to ask my colleague.

Mr. CORWIN. Senator, I am Thomas Corwin from the Department's Budget Service. We do not have a standard program of support for community colleges, so I don't think we would have data to back up that statement.

Senator DORGAN. I am going to send you a question about that because I have seen comparisons about support for students at community colleges through the various Federal programs and support that exists for those who go to tribal colleges. It is about roughly 50 percent to 60 percent. So I am going to send you some questions about that and see if we can get some information about it.

I would like to finally ask Mr. Cason, if I could, you had a requirement to pay attorneys fees, I believe, with respect to the trust settlement. The Department of the Interior had a requirement to pay attorneys fees and I think it was in the neighborhood of $5.7 million?

Mr. CASON. $7.066 million.

Senator DORGAN. And you paid those attorneys fees out of Indian program funds, which include, there is an obligation, I believe, in Indian program funds that is for the payment of those costs, but the Office of Special Trustee has a litigation cost fund for *Cobell* litigation that is part of the Office of Trust Records' budget. My understanding there is money in that, but that was not used for it. Instead, the money came out of Indian program funds. Is that correct? If so, why?

Mr. CASON. That is correct. There are two things that are important. Firs, the department has a couple of pots of money that are used for managing the day-to-day activities of the *Cobell* litigation. Between the commitments we have in the Department of the Interior and the commitments that we pay for at the Department of Justice, we are actually short on those funds just to manage day-to-day *Cobell* costs.

When we got the judgment from Judge Lamberth to pay $7.066 million in attorneys fees under EAJA, the Equal Access to Justice Act, we were told that we could not take those funds from the judgment fund and that they had to come out of program funds. We looked at a wide variety of alternatives to pay those funds and in the end of that process basically I made the decisions for the department to try to spread the impact across a number of programs to minimize the impact on any one single program.

Ross in the OST Program contributed some money into the process, BIA did, the Office of Historical Trust Accounting did. We got

a big chunk of money from the Department of Treasury. So what we attempted to do was spread the impact, the adverse impact on the Sunplant expense across a number of programs so that no one program would be hurt terribly.

Senator DORGAN. I am going to send you some additional questions about that. I do not want to spend a lot of time on it.

Let me just finally, Mr. Chairman, say this. I have, as I have said and I am sure members of the committee have all traveled extensively to Indian reservations, and I have been to many parts of the world and seen substantial amounts of poverty. I have stood at City Soleil in Port-au-Prince, Haiti, and many parts of the world, and have seen very substantial poverty and difficulty.

I think all of us, you on the panel and those on the committee, understand that you can go to parts of this country and think that you are on a completely different continent, in the midst of enormous poverty, people living in conditions that are really, really tough.

So we have this hearing and it sounds just like reasonable things, you know, we are streamlining this, we are changing that, we are making a few adjustments here or there. Let me again, Mr. Chairman, say I think we have a full-blown crisis in a number of areas in this country, particularly dealing with Native Americans, particularly dealing with children and the elderly, with respect to housing, education and health care. I do not think that just nibbling around the edges on these issues really does the job very much.

If I were, and I think if most members of this committee were tribal Chairs trying to figure out how you meet these needs with the resources that exist, it is probably not just tough. It is probably impossible.

So I hope that we can pole-vault over some of these notions of just inching forward in some areas and seeing if we can't do a quantum leap in trying to address what are some serious human problems that desperately call out for resources. There are other areas in our budget that get lots and lots and lots of resources. We will get $120 billion request very soon, emergency, none of it paid for, that will add up to somewhere over $300 billion in total. We will do that just like that. But God forbid it should be for the health and welfare of Indian children or others living in conditions of extreme poverty.

I am proud to serve on this committee and proud to serve with some colleagues that care a great deal about this as well. I hope that all of us can understand the urgency of it and begin to make some real progress.

The CHAIRMAN. Senator Thomas.

Senator THOMAS. Thank you, Mr. Chairman.

Mr. Cason, it is a number of agencies involved in this budget, correct?

Mr. CASON. Yes.

Senator THOMAS. I do not have a total here. What is the total of the budget for Indian activities?

Mr. CASON. Within the Department of the Interior?

Senator THOMAS. No; the total.

Mr. CASON. Across Government?

Senator THOMAS. Yes.

Mr. CASON. What I am told is that it is in the order of $11 billion, if you add up all the programs in the various agencies we have here.

Senator THOMAS. $11 billion.

Mr. CASON. Yes.

Senator THOMAS. And do you know how that compares with last year?

Mr. CASON. I don't.

Senator THOMAS. I guess if there is an agency that has some oversight or some, at least not oversight necessarily, but coordination, it would be your agency. Isn't that correct?

Mr. CASON. We do attempt to do that. Dr. Grim and I have worked together, the Department of Education and I have worked together. We are commonly working with the Department of Justice on our programs. So I think there is a fair amount of coordination that goes on between the agencies, albeit we have different missions.

Senator THOMAS. Yes; I guess I have to say I am a little surprised to see the budget broken down. I understand there are different agencies, but it would seem to me there would be some good reason to have a total overview of it among all the agencies so that the total end-game points toward the priorities of needs within the Indian country. Do you agree with that?

Mr. CASON. That sounds reasonable.

Senator THOMAS. I just am a little surprised at the diversity that there is in terms of putting the budget together. Is there any oversight? Does anybody kind of have an overview of what the priorities are in general, and then how that impacts the total? Or does everyone just kind of do their own thing?

Mr. CASON. Well, my impression about that coordination point would be the Office of Management and Budget, because all of our budgets basically stream through OMB, and that is where I have received my figures about the overall Indian budget. So I think OMB is taking a look at all the various parts.

Senator THOMAS. I understand the numbers. I am talking about the activities. I am talking about looking into the future and dealing with some of the things Mr. Dorgan talked about in terms of changing some fo the social problems in the Indian country, and how the budget ought to be doing that, rather than just making it a mathematic operation. That is just the view I have, and it seems to me it is kind of important.

I don't know. Who does energy things among you? Anyone?

Mr. CASON. We do have energy programs within the BIA. As the trustee for the 56 million acres under our care, the Government's care, we have energy mineral programs on that land.

Senator THOMAS. Do you have some activities with regard to the budget there in terms, for instance, of developing the opportunities for energy development to help the tribes financially?

Mr. CASON. Yes; we do. We actually went through a process during this year to move the Energy and Minerals Program under the Deputy Assistant Secretary for Economic Development so that we could highlight the potential for energy and minerals to provide economic development opportunity for tribes. We are going through

a process right now of working with the tribes to identify the best potential energy and mineral deposits on Indian country that are potentially developable and then we would work with industry for those the tribes want to develop to see if we can get industry interest in those.

Senator THOMAS. Good. I hope so. Again, it seems to me we ought to be giving a little more emphasis, a little more focus on the future and what is going to happen on the tribal lands and with the tribes, rather than just this year's needs. One of the real opportunities, at least on some of the reservations, is the development of energy facilities which would be very economically helpful.

Over in education, you talked some about junior colleges and so on. Are those primarily, do you work with the surrounding regular community colleges for Indian programs in them? Or are you oriented to Indian schools separately?

Ms. MARBURGER. We do have programs that support tribal colleges and universities.

Senator THOMAS. What does that mean, tribal colleges and universities?

Ms. MARBURGER. These are colleges that actually support——

Senator THOMAS. Exclusively tribal?

Ms. MARBURGER. I do not know if they have a mission to others, but they are focused specifically on serving the tribes, yes.

Senator THOMAS. The smaller reservations are not going to have those specifically. There are not enough people involved so you have to work with the surrounding communities. I guess that is my interest. And you do that?

Ms. MARBURGER. I do not know of our activities in that area, but I would be happy to get back to you with regard to that.

Senator THOMAS. I wish you would please.

[Information follows:]

TRIBALLY CONTROLLED COLLEGES AND UNIVERSITIES

The Strengthening Tribally Controlled Colleges and Universities [TCCU's] program is authorized under Title III, Part A, Section 316 of the Higher Education Act of 1965, as amended. The program awards discretionary grants that enable TCCU's to improve and expand their capacity to serve American Indian students. Applicants are limited to tribal colleges and universities—defined as such by section 2 of the Tribally Controlled College or University Assistance Act of 1978-plus any institution listed in the Equity in Educational Land Grant Status Act of 1994. There are 32 federally recognized Tribal Colleges and Universities in the United States. Most of the TCCU's are 2-year schools. Located mainly in the Midwest and Southwest, Tribal Colleges and Universities offer 2-year associate degrees in over 200 disciplines with some providing a bachelor's and master's degree. They also offer 200 vocational certificate programs.

Institutions may use their funds to plan, develop, and implement activities that encourage: faculty and academic program development; improvement in fund and administrative management; construction and maintenance of instructional facilities, including purchase or rental of telecommunications technology equipment and services; student services; or the establishment of a program of teacher education with a particular emphasis on qualifying students to teach Indian children. In addition, TCCU's may use their funds to establish community outreach programs that encourage Indian elementary and secondary school students to develop the academic skills and interest to pursue postsecondary education.

Senator THOMAS. Dr. Grim, finally, you mentioned something about eliminating funding for Indian Affairs?

Mr. GRIM. For the Urban Indian Health Programs.

Senator THOMAS. Oh, urban.

Mr. GRIM. Yes, sir.

Senator THOMAS. Because there is $3 billion in the budget for Indian Affairs.

Mr. GRIM. I said overall we had a net 4.1-percent increase, but there were two reductions over 2006 enacted budget for us. One of them was in health care facilities at a minus $20 million for 2006 enacted, and the Urban Indian Health Program at minus $32 million. That was a redirection of those resources.

Senator THOMAS. I see. I misunderstood what you said.

Mr. GRIM. It was a component that is approximately 1 percent of our budget that funded 34 grants to urban Indian health organizations that did anywhere from outreach and referral sorts of services to ambulatory care services in different communities around the Nation, urban communities.

Senator THOMAS. There is an increase in Indian Health Service, correct?

Mr. GRIM. Yes, sir.

Senator THOMAS. How much is that?

Mr. GRIM. $124 million net over 2006, so 4.1 percent. But if you factor out the two decreases that make it net, it adds back in another $50 million as well, again, going to the health services side for the tribes' reservation clinics and hospitals, and also to environmental health and sanitation activities.

Senator THOMAS. Okay. Fine, thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Murkowski.

Senator MURKOWSKI. Thank you, Mr. Chairman.

Ms. Schofield, have you had an opportunity to familiarize yourself with the Alaska Rural Justice Commission report? This was a report that came out last year, a collaborative effort amongst Alaska Natives and those on the law enforcement side just looking at the issues specific to the State and Alaska's natives and how we might deal with some of the enforcement issues?

Ms. SCHOFIELD. No, Senator; I have not, but I will.

Senator MURKOWSKI. Okay. We will make sure that we have a copy sent over to your office. After you have had a chance to look at it, I welcome the opportunity to sit down with you and discuss some of what you are doing with your program, and what some of the challenges we are facing up north would be. So I would look forward to that.

Mr. Cabrera, I know you and I have been trying to set up a time for you to visit the State to understand better some of our housing needs as they relate to our rural villages with our Alaska Natives. We will be working with you to set that date. I think it is important that you have an opportunity to see first-hand some of the challenges that we experience, and I am looking forward to doing that with you.

Again, Ms. Marburger, I will extend the invitation to Secretary Spellings. When Secretary Paige made the trip up, we were successful in kind of sitting together with not only Secretary Paige, but the Secretary of Health and Social Services, the HUD Secretary, in discussing what we called at that time the Alaska Project. You mentioned in your comments that there are significant

risk factors that face our Indian students, our Alaska Native students.

We learned that it is not just about delivering education within the four walls of the classroom. There are other factors, whether it is the extremely high incidence of FAS, the domestic violence, the sanitation issues that lead to the health care concerns, the housing issues, when you have the principal of the school living in the broom closet there in the school. These were factors that kind of all go into the education component. So I would like to re-start those discussions again at that higher level, if we can do that. It would be important to have the Secretary's input on that.

Dr. Grim, you mentioned, and I mentioned in my opening comments, the facilities construction budget and where we are. You have indicated that the way going forward is more of a treatment versus infrastructure approach. But as you know, because you have visited my State on so many different occasions, when you are hundreds and hundreds of air miles away and thousands of dollars in transportation costs away from the infrastructure, it is really difficult to talk about treatment.

My question to you is, as far as the Barrow and Nome projects go, recognizing that they are number one and number two on that list, how is the Administration's proposal going to affect those plans going forward?

Mr. GRIM. I would point out that you are correct. They are on the priority list. They are the next in line and they are of sufficient size that in this particular year's budget and in the focuses that we have, that we put a hold on them until out-years. But they are still a priority. We are working with the tribal corporations, both our headquarters staff and our area office staff up there, and we continue to work with them on A&E design work. They are in the process of getting ready to procure the property.

So it was an issue of hard choices, as I said, but they are on the list and they are one of the next ones up.

Senator MURKOWSKI. They understand that, and they have been told that, as you know, for a number of years. So I need to know. What do I tell my constituents up there in Barrow, up there in Nome? Are we on or are we not on? You have given me the signal that yes, we are moving forward with the preliminaries, and I am pleased to know that that remains in process, but I also want them to understand that there is a timeline that they can look forward to.

So as we move forward with that, I would ask for your very frank communication and truly a commitment to progress on these very, very important projects to us.

Mr. Cason, last year we passed the Alaska Land Transfer Acceleration Act. This was intended to complete the conveyance of lands from the Federal government that were due the State of Alaska, as well as our Alaska Native corporations and the allotment applicants. The whole goal of this legislation was to complete these transfers by the 50th anniversary of statehood, which is coming up in just a few short years.

In order to complete these conveyances, we have got to have adjudication of the Native allotment applications. I need to know

whether the department believes that with this budget they have the sufficient resources to do the job.

Mr. CASON. Senator, it is my understanding that the conveyances that are being done are managed by the Bureau of Land Management. I have had briefing papers from Henri Bisson, the State Director for BLM on that subject. As I recall, he anticipates it will take several years and is building that into the BLM budgets, but I do not know exactly what their budget is for that purpose, but it is on his radar screen.

Senator MURKOWSKI. Okay, we will ask that question in the Energy Committee as well.

Can you explain to me why the BIA is not proposing the renewal of the grant? This is a $349,000 grant to Alaska Legal Services to support the Native Allotment Program. Again, this is the entity that is doing the processing of these applications, and apparently that was zeroed out.

Mr. CASON. That would be one of the smaller programs that I mentioned earlier in my opening statement, that the principal responsibilities for carrying out the Native Allotment selection process and conveyances is within BLM, and that we played a secondary role. As we went through and prioritized our budget, we basically looked at all of the programs that were secondary and tertiary programs, and they were the first ones on the block to give tradeoffs for our core programs and maintaining the integrity of those.

So it would be my suggestion that that is what happened. In that case, the BLM had the principal responsibility for it.

Senator MURKOWSKI. Well, we will be talking with BLM on that.

Mr. Grim, one more question for you. This is one that you know I bring up regularly. This relates to the sanitation facilities construction in Alaska. You know what the needs are. You have seen first-hand. Tomorrow, I am going to have an opportunity in the Environment and Public Works Committee to speak to the Administrator of EPA, Steve Johnson, about the cuts and the reductions in the Village Safe Water Funding.

As we know, when we are talking about the health needs of Alaska Natives, it comes down to some of the very, very basic things that you and I take for grant. As Senator Dorgan has mentioned, you can go to some of the communities in Alaska and really feel like you are back in a third world country. We are not talking about flush toilets. We are talking about hauling the human waste down a wooden boardwalk, slopping this stuff all over, and putting it into a lagoon.

I need to again have your commitment reiterated on this issue, that when we are talking about meeting the health care needs, we have to address the sanitation issues and that facilities construction.

Mr. GRIM. You have my commitment. It is a strong component of our program. You did see a $1.8 million increase in it, again reflective of the increased costs of providing services so that we can at least stay where we were this past year.

We hope to go further. As you know, that program is one of our stronger programs about using other dollars, too. During fiscal year 2005, we were able to bring in from other resources about 42 cents

on the dollar of our budget, working with tribes and with other Federal agencies, for sanitation facilities for Indian communities.

I have been to a number of your communities up there that still lack some of those very basic resources. I will commit to work with you and to see what we can do about that.

Senator MURKOWSKI. Well, we are making some headway, but we do need that continued commitment to make the difference.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much.

I thank the witnesses for coming today and appreciate it.

The next panel is Joseph Garcia, who is the president of the National Congress of American Indians. Kathleen Kitcheyan is a member of the board of directors of the National Indian Health Board and chairwoman of the San Carlos Apache Tribal Council. Ryan Wilson is the president of the National Indian Education Association. Cheryl Parish is the secretary and board member of the National American Indian Housing Council. And Gary Edwards is the chief executive officer of the National Native American Law Enforcement Association.

President Garcia, we will begin with you. Please proceed. I will repeat, your complete written statements will be made part of the record. Please proceed.

STATEMENT OF JOSEPH A. GARCIA, PRESIDENT, NATIONAL CONGRESS OF AMERICAN INDIANS

Mr. GARCIA. Thank you, Chairman McCain and Vice Chairman Dorgan, for the invitation to appear before the Senate Committee on Indian Affairs today, and present the views of the National Congress of American Indians on the Administration's fiscal year 2007 budget request for Indian programs.

This is my first opportunity to speak publicly with this committee at president of NCAI. I would like to say how much the member tribes of NCAI appreciate your service. Chairman McCain, it is an incredible honor for Indian Country to have your leadership in this committee. And Vice Chairman Dorgan, we are very proud of your service to Indian country.

As Congress shapes this budget, NCAI urges you to include the priorities of Indian country, namely the promotion of strong Indian families in a safe, secure and self-reliant Native America. We are sovereign, independent, self-sustaining nations. Our mandated relationship with the U.S. Government puts us in a precarious position. Our success is dependent to a large extent on the Government's respect for tribal rights to self-determination and self-sufficiency.

NCAI's Budget Task Force consulted national tribal organizations, the BIA Tribal Budget Advisory Council, and tribal leaders. We have identified the following areas for meaningful Federal investment in Indian country: public safety, health care, education, and self-determination programs such as contract support. Tribes have proven time and time again that we are a good Federal investment.

Through the exercise of our inherent self-governing powers, tribes are able to contract and compact Federal programs for the benefit of both Indian and surrounding communities. Today, tribes

operate one-third of IHS clinics. Tribes are the most accountable for their own resources, services and members, and have demonstrated resounding successes in recent years.

The roots of success, where do these lie? Indian country has solutions for closing the educational achievement gap based on the values and lessons of our cultures, as evidenced by the achievements of culturally appropriate approaches. Academic studies show that Indian children flourish when their classroom experiences are built on our tradition, languages and culture.

In 1994, the Alaska Rural Systemic Initiative began connecting students with elders in the community and creating a passion for learning by showing students how to explore science and history in light of their cultural heritage. Over a 10-year period, student performance went up, test scores improved, and dropout rates declined.

Indian Head Start also has played a major role in native communities. This comprehensive program integrating education, health and family services has laid the foundation for many of today's tribal leaders. However, only about 16 percent of the age-eligible Indian child population is enrolled in Indian Head Start. Mr. Chairman, Mr. Vice Chairman, this is not acceptable.

Tribes, though, have also stepped up to address the border security issues and the eradication of meth. The Tohono-O'odham Nation's 71-member police force is the first in frontline emergency and law enforcement responders to deal with the 1,500-per-day traffic of undocumented immigrants and drug traffickers who cross the vast and vulnerable border. They expend about $10 million of their own resources to get this done.

The nation is also compelled to provide health care or make other arrangements for the illegal immigrants found either dead or near-dead in the desert, and has absorbed the burden of cleaning up the six tons of trash littered on this reservation daily due to the immense illegal immigration. The nation has undertaken these activities to protect the homeland with almost no homeland security funding.

Many reservations innovatively manage their forests under the principles of adaptive ecosystem management, with increasing quality and quantity of tribal forest management staff. On the White Mountain Apache Reservation, forest tending and field reduction activities stopped the events of the huge Rodeo-Chediski Forest fire. After the fire, the tribe and BIA quickly and successfully salvaged much of the logs from the burnt-over lands, using helicopter logging in the post-fire burn and area emergency recovery activities on the reservation. That drew national attention for the effectiveness.

Tribal government, just like State and municipal governments, provide critical services, shape values and promote jobs and growth. Low Federal spending for Indians has lost ground, compared with spending for the U.S. population at large. Tribal self-governance has proved that Federal investment in tribes pays off.

Between 1990 and 2000, income rose by one-third and the poverty rate declined by 7 percent. A Harvard study showed that these gains occur with or without gaming. Tribal governments have worked hard to put laws in place that promote economic activity,

and Indian reservations are the next opportunity for the American economy.

But this is only the very beginning. Real per capita income of Indians living on reservations is still less than one-half that of the national average. Unemployment is still double what it is for the rest of the country. The poorest counties in the United States are on tribal lands. So we still have yet to join the success of the rest of the Nation.

The success of Indian country in self-governing and managing the resources warrant continued Federal investment in tribal self-determination. We are concerned that this year's budget request reduces effective funding for tribal priorities. NCAI urges Congress to honor its commitments to Indian nations and provide tribes with the necessary tools for continued progress through the promise of strong tribal self-government.

We ask that these recommendations be taken more closely to heart as the fiscal year 2007 budget advances. First, tribal leaders have consistently identified law enforcement, justice and homeland security as key concerns in the fiscal year 2007 budget. A primary role of tribal government is to ensure the security and safety of Indian communities and families, tribal lands and resources, and the United States through law enforcement, detention and strong judicial systems. Our written testimony outlines the critical link Indian country plays in securing our lands and our country. Through significant, but incremental increases over several years, Indian country public safety programs can reach adequate funding levels.

NCAI supports sustained 8 percent to 10 percent annual increases in the Interior Department and Justice Department Indian country public safety programs for fiscal year 2007 through fiscal year 2009. NCAI also supports a special funding initiative to build the next 15 Indian country detention facilities.

Second, poor health continues to inhibit the economic, educational and social development of all of Indian country. American Indians and Alaska Natives receive life or limb service under current conditions, meaning funds are only available to treat the most life-threatening illnesses. NCAI urges Congress to fund IHS at a level to at least maintain existing health services and to restore loss of buying power.

We also oppose the zeroing-out of the Urban Indian Health Program. Urban Indian Health provides a critical link in the health care chain that cannot afford to be broken and cannot be replaced by other health services.

Third, NCAI encourages this Committee to invest in Indian education through support of native languages, Indian Head Start, tribal colleges and restoring the Johnson O'Malley Program in BIA.

Finally, self-determination programs throughout the budget. Initiatives this Administration has expressed consistent support for are critical to tribes' ability to effectively assume local control. Contract support costs, tribal priority allocations, 638 pay cost increases, and the administrative cost grants, all support Indian self-determination.

NCAI commends the requested increase for BIA indirect contract support for fiscal year 2007. Failing to fully reimburse contract support costs in the Indian Health Services effectively penalizes

tribes for exercising their self-determination rights. It forces cuts to tribal programs in order to cover the shortfall and leads to partial termination of the Federal Government's trust responsibility. As a matter of Federal contracting principle, tribal contractors, like all other government contractors, should be promptly paid in full. We encourage Congress to fully fund contract support this year and in the future.

Finally, as you know, there are dozens of specific budget recommendations in our written testimony that we do not have time to discuss at this time. 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 United States Government's trust relationship remains unchanged, as well as Indian country's proven success in addressing the needs and concerns of our communities, which makes tribes a good investment for the Federal Government.

Thank you for the time and the opportunity.

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

The CHAIRMAN. Thank you very much.

Kathleen Kitcheyan. Welcome.

STATEMENT OF KATHLEEN KITCHEYAN, MEMBER, BOARD OF DIRECTORS, NATIONAL INDIAN HEALTH BOARD, AND CHAIRWOMAN, SAN CARLOS APACHE TRIBAL COUNCIL

Ms. KITCHEYAN. Thank you, Senator.

Chairman McCain, Vice Chairman Dorgan and distinguished members of the committee. Thank you for inviting the National Indian Health Board to testify on the President's 2007 budget recommendations for American Indians and Alaska Native Health Care.

Mr. Chairman, Vice Chairman Dorgan, thank you for your leadership in the move to reauthorize the Indian Health Care Improvement Act. It has been 14 years since it has been updated, and we need to achieve this. NIHB and Indian country stand with you and will work together with you to achieve it.

The President's budget request for fiscal year 2007 proposes an increase of about 4 percent for IHS. We know these are difficult budget times in America and know it is not easy to find the increase, but Mr. Chairman, that does not quite amount to status quo and we cannot continue at less than status quo for Indian people.

Status quo is a life 6 years shorter than any other American group, being 318 percent more likely to die from diabetes, and 670 percent more likely to die from alcoholism. It is 63 babies born in my tribe last year addicted to crystal meth. And this is just one tribe. Imagine the rest. Nationally, Indian country is under attack from crystal meth and we must aggressively address this starting in this budget cycle.

Furthermore, it is 120 suicide attempts and 84 actual suicides since 2002 in my tribe alone. Nationally, it is that our youth are twice as likely to commit suicide and nearly 75 percent of all suicide acts in Indian country involve alcohol. I would like to acknowledge you, Senator Dorgan, for your efforts on this issue.

We request a financial and policy commitment from Congress to help America's native people begin to achieve true progress in changing the reality of inferior health care known to us. A 10-percent increase over current funding levels would be evidence of that commitment. We will be working with Congress during this appropriations cycle to increase funding for IHS by 10 percent over fiscal year 2006 appropriated levels. The budget request meets about 60 percent of documented need, and 10 percent is a modest increase.

We request $200 million for the Well-Indian Nations Initiative to undertake disease prevention and health promotion activities in Indian country. This includes mental health services and outreach programs. We request $90 million over the current request in order to assure that contract support costs obligations will be met. According to IHS figures, an additional $60 million will be needed to reach this year's contractual commitments.

We request the end of the 1-year pause of 2006. The President's 2007 budget cuts another $20 million from the health facilities construction program. This is in addition to the $85.2 million cut for 2006 that nearly ended the program and was called a 1-year pause. That funding year is over. Let's end this pause and provide $88.5 million to the facilities programs.

As Senator McCain knows, in Arizona we have projects on the priority list at Red Mesa, Kayenta, and San Carlos, and it is imperative that we complete these projects. Senator Murkowski also mentioned that for Barrow and Nome, AK.

Finally, we strongly support the continuation of Urban Indian Health Programs and request a funding increase for them. HHS needs to have tribal consultation before any policy decisions are made to close the urban Indian clinics. This is consistent with current consultation practice and policy. According to the last census, more than one-half of American Indians live in urban areas. Tens of thousands are getting their health care through urban clinics.

The Government assumption that American Indians and Alaska Natives will seek health care from community health centers is based on nothing. There are no studies, no facts and no information. You don't know what is going to happen to these people. We think that they will return to their reservations or communities to seek health care, but there is no funding request for the tribes to care for them. We must have tribal consultation before this is even considered.

In the richest, most powerful country in the world, a country whose very foundation quite literally sits on American Indian homeland that was largely traded for guarantees of peace and health care, among other things, we can do better. We must. Our Indian people need hope. Funding will bring us hope, a chance at life, a healthy life.

Mr. Chairman, there is so much more that should be discussed here. I have tried to highlight the most critical areas and I also request that my written comments be added into the record.

Thank you and God bless you.

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

The CHAIRMAN. Thank you. Without objection, your full statement will be part of the record.

Mr. Wilson, welcome.

STATEMENT OF RYAN WILSON, PRESIDENT, NATIONAL INDIAN EDUCATION ASSOCIATION

Mr. WILSON. Chairman McCain, Vice Chairman Dorgan, Senator Akaka, members of the Senate Committee on Indian Affairs, we thank you for this opportunity to submit testimony on behalf of the National Indian Education Association with regard to the President's fiscal year 2007 budget request.

I also would like to summarize my written testimony and ask that be submitted into the record.

Indian education programs are constantly funded at the minimum level established by Congress, never the maximum level. The Federal Government has not upheld its legal or moral obligation to provide sufficient funding for the education of Native American students. President Bush's budget proposes a $3.1-billion or 5.5-percent decrease for education spending, leaving $54 billion in total discretionary appropriations for the Department of Education. This is the first decrease in education spending since 1994.

Within the Department of Education budget, none of the programs specifically for Native American students received an increase. Rather, the majority of the programs of the native students received level funding from fiscal year 2006. This results in a de facto decrease when factored into the rate of inflation. Inadequately funding native education programs will diminish, if not undo, the progress that has been made.

Chairman McCain and Vice Chairman Dorgan and other members of the committee, I want to call your attention to the charts that the National Indian Education Association brought here. We wish to dramatize what inflation does actually when level funding happens. As you heard from the first panel, they actually expressed that we were successful with our budget because it was flat-funded or level-funded. That is absolutely incorrect. We are receiving brutal decreases here when the cumulative effect is over the course of the last several years.

One chart shows from 2003 to 2005, that is the total Indian education funding in both the BIA, the Department of Education and HHS.

I would also like to call your attention to the BIA construction funding. You heard from Assistant Secretary Cason about the progress that has been made in BIA education funding. We respectfully disagree. The backlog is becoming a first-class crisis and again our young people are attending second-class schools at rates that it should never happen here in America.

The President on his web page showcased the Santa Fe Indian School as a model for the BIA school construction. We would like to challenge that every Indian child in America should go to such a school, with beautiful architecture and beautiful state-of-the-art facilities like that. So we would like those charts to be witnessed by you. We thank you for that.

Native American language funding, you heard from the President of the National Congress of American Indians that this is a priority. Through a survey done by the National Indian Education Association and Dr. William Demmer, we have established that there are only 20 Indian languages that are spoken by Indian children throughout America. We have roughly 100 surviving languages

now out of more than 300 that were here at the beginning of contact. Simple math tells us that by the year 2050, that is what we will be down to is those 20 languages. We are prioritizing this and NIEA requests that $6 million be increased into the fiscal year 2007 for the Administration to support: No. 1, existing Native American immersion schools and programs through a competitive grant process; and No. 2, the development effort for new immersion schools and programs through the competitive grant process.

We also ask for $400,000 to enable NIEA to have data collection and a study to perform the effectiveness of Native American immersion schools. In fiscal year 2004, 2005, and 2006, ANA received $44 million, but less than $4 million went to actual Native American language programs, and out of that less than 10 percent went to actual cultivation of Native American languages.

We also strongly support the legislation introduced by Senator Inouye in the 108th Congress, S. 575, that strengthens the current Native American Language Act and looks forward to reintroduction of this legislation.

Again, I touched on school construction. NIEA requests a $56-million increase from the fiscal year 2006 enacted level of $206 million for a total of $263 million. The fiscal year 2007 budget request for school construction and repair is only $157 million, while the fiscal year 2006 enacted level funding for BIA school construction and repair was $206 million.

Despite the President's budget request for fiscal year 2006 to significantly reduce this funding in fiscal year 2007, the enacted funding level was $263 million, which was instrumental in reducing the construction and repair backlog. As you can see from the inflation charts, if we take care of this now, it will save us literally millions and millions of dollars later.

As you have heard from all of the panelists, we, too, care about Johnson O'Malley. April 16, 1934, this was really the first fundamental and significant commitment from Congress to fund Indian education. So this act has historical implications. NIEA at our legislative summit heard yesterday from an official from the Department of Education, Office of Indian Education, that it does not duplicate services of title VII or title I. So we, too, recommend full funding of JOM and actually an increase, which would bring it to $17.2 million.

Moving into title VII funding, due to the tight Federal budget for this year, NIEA requests a moderate 5-percent increase to $9.3 million, for a total of $195 million in fiscal year 2007 for NCLB title VII funding for American Indian, Native Hawaiian, and Alaska Native education.

We would also like to talk a little bit about the President's 2007 budget request for Indian education, Alaska Native Education equity, which calls for level funding, and a request for education of Native Hawaiians is reduced by 8 percent. We oppose this. Despite the fact that NIEA and native educators have been asking for 5 percent increases in all native education program funding, Indian education program funding remains the same level as fiscal year 2006 at $118 million, and down from fiscal year 2005 and 2004 and 2003 despite our increased needs.

So the needs of Indian country are increasing, and the resources that are being allocated to us are decreasing. This is a fundamental concern to Indian country and the National Indian Education Association.

Mr. Chairman, I also respectfully seek permission to submit the National Indian Education Association legislative summit packet to this committee, as a matter of the Congressional Record, and we will be available for questions as well.

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

The CHAIRMAN. Thank you, Mr. Wilson. Without objection, that study will be made part of the record.

Ms. Parish, welcome.

STATEMENT OF CHERYL PARISH, SECRETARY AND BOARD MEMBER, NATIONAL AMERICAN INDIAN HOUSING COUNCIL, ACCOMPANIED BY GARY GORDON, EXECUTIVE DIRECTOR

Ms. PARISH. Thank you.

Good afternoon, Chairman McCain, Vice Chairman Dorgan, members of the committee. My name is Cheryl Parish. I am pleased to appear before you today as Secretary of the National American Indian Housing Council.

On behalf of NIHC, its membership, and board of directors, I would like to thank you for this opportunity to address you today on the President's budget request for fiscal year 2007 as it relates to Indian housing and housing-related community development.

First, though, I want to express our gratitude to you and your capable staff for your committee's longstanding support for our efforts to provide safe, decent and affordable housing for native people.

Mr. Chairman, this committee does need to be reminded of the dire economic and social conditions on Indian reservations and native communities in Alaska and Hawaii. It seems that others in Congress and elsewhere do not have a firm grasp on the situation. Accordingly, I will reiterate that Native Americans are three times more likely to live in overcrowded housing than any other Americans. Native Americans are more likely to lack basic sewage and water systems, telephone lines, and electricity than any other American.

I challenge our friends in the press who have a never-ending appetite to write about gaming and Indian-rich tribes, to go and visit the poor, the rural tribes of the Great Plains, the great Navajo Nation, and the remote native villages in bush Alaska, to see that in 2006 poverty still has an Indian face.

In the 2007 budget request, the President seeks $625.7 million for our NAHASDA block grant program. In addition, unlike the fiscal year 2006 request, the President proposes to preserve our ICDBG in a larger community development fund and seeks to fund it with $57.4 million. Taken together, level funding or a funding level that is slightly less than the previous year's amount, coupled with inflation and a strong and growing demand for housing in the native community, means that fewer homes will be built using Federal funds.

Since the enactment of NAHASDA in 1996, this committee has continually shown unwavering support for tribal housing programs

and the people that they serve. While money is not the answer to all problems, building houses and related infrastructure is one area that is dependent on ample funding. To meet the current housing and infrastructure demands, NIHC estimates that $1.1 billion per year in funding is needed for the block grant program. A reasonable start for fiscal year 2007 would be $748 million, and the budget request proposes $625.7 million, resulting in a 1-year funding gap of over $122 million.

In addition to the funding levels, the National American Indian Housing Council is alarmed that the language changing the housing funding allocation formula is included in the 2007 budget request. The language was included without tribal consultation and over the strong objection of the National American Indian Housing Council. In the final fiscal year 2006 appropriation, it was inserted in there. The language deals with the need portion for housing funding a calculated by the Department of Housing and Urban Development, and it requires interpretation by HUD of the responses to tribal members in the 2000 decennial census in calculating the tribe's relative need portion for housing assistance.

The National American Indian Housing Council has constantly taken the position that this matter is properly one for the authorizing committees of the Congress, tribes and HUD. NIHC urges the Committee to wrest control of this matter from the appropriators and pledges our support for discussions on these matters with this committee and its sister committees.

NIHC is not solely interested in Federal grants to build Indian homes. We see a future in providing homes for ourselves in the same manner that all citizens of this country help themselves to purchase homes through the use of mortgage financing, including Title VI and 184. We are encouraged to see that the President has remained committed to both of these loan programs through level funding of Title VI and the tripling of the 184 program.

CDBG is also important for tribes in developing physical infrastructure and related economic opportunities. We also believe that it should be funded at least at the inflation-adjusted level of $77 million and to be kept as a separate account.

The President has again proposed reducing the technical assistance funding in NAHASDA 2007, by eliminating both the NAHBG set-aside and the Indian community development set-aside. Our technical assistance programs through the National American Indian Housing Council are a very important part to our Indian housing programs. What we have done with these in 2005, we have done over 246 site visits. We have offered 38 free training classes. We offer cutting-edge training programs.

The one very highly participated and needed basically is the training on the methamphetamine problem, which is plaguing tribal housing programs. We have expanded our home buyer education programs and provided over 751 scholarships to 220 tribes, totaling over $807,000.

We conduct one major research project annually and our prior research focused on infrastructure. The infrastructure study led to the creation of a task group including multiple Federal agencies and resulted in an MOU currently in the signature phase under

the agencies to improve cooperation and coordination with the development of Indian country infrastructure.

We believe that our track record of success and our promise in assisting tribes in the future warrants funding of $5 million in 2007 for technical assistance, but only if NAHASDA and ICDG programs are fully funded.

I would like to thank you again for your longstanding support. We look forward to working with you in the next congressional session.

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

The CHAIRMAN. Thank you very much.

Mr. Edwards, welcome.

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

Mr. EDWARDS. Thank you, sir.

Mr. Chairman, Mr. Vice Chairman, distinguished members of the committee, tribal leaders and tribal elders, it is an honor for me to be here today and speak to you regarding the President's 2007 proposed budget for Indian programs. I am the chief executive officer of the National Native American Law Enforcement Association. We have been in existence since 1993. Our membership is made up of men and women, Indian and non-Indian, law enforcement and non-law enforcement, because we believe that everyone within a community needs a voice to have a good law enforcement experience in any community.

We are a public service organization focused primarily on public safety. As we look at the President's 2007 budget, a maxim comes to mind from President Abraham Lincoln, which is worthy of consideration. He said, "I walk slowly, but I never walk backward." Historically, American Indians have been made to walk slowly in their pursuit of equality in public safety, health care, detention, education and so forth. With each step, and as by the wisdom of President Lincoln, progress has been achieved, although much progress is still needed.

NNALEA is concerned that the President's fiscal 2007 budget request for Indian programs, if approved in its current form, may result in regression of progress with regard to American Indian public safety, health, education, self-governance and self-determination.

For the remainder of my comments, I will speak with regard to public safety issues in Indian country.

The most pressing Indian country public safety issues of today are the loss of the COPS grants. It is a crisis in Indian country. From 1999 until the present, approximately 1,800 new law enforcement jobs have been created in Indian country. Between the years of 2004 and 2006, approximately 759 of those officer grants have expired. This is a devastating reduction to an already limited number of tribal law enforcement officers in Indian country.

It is also a devastating effect on our national economy. The United States has invested capital in developing Indian country law enforcement. We have worked hard to integrate people within the Indian community that represents the community while enforc-

ing the local laws and the national laws as well. As we look at this investment, the average investment per officer amounts to $100,000 for 3 years in the placement of the officer, his equipment, training and technical assistance.

By way of example, the Pine Ridge Reservation currently has 86 sworn tribal law enforcement officers. It serves 41,000 residents on 2.1 million acres of land. The Pine Ridge ratio of officer to resident is approximately two for 1,000 residents, and one officer for 24,400 acres of land. On March 31, 2006, the Pine Ridge Police Department is poised to lose 59 of their 86 police officers due to sunsetting COPS grants. That will reduce their service to the resident officer population to one in 1,000, and their coverage of 77,700 acres per officer.

This will also represent a $5.9 million loss in invested capital by the U.S. Government in providing law enforcement services to this particular reservation. Pine Ridge officers, the 59, the economy does not present opportunities for them to be able to take their families and have other jobs on that reservation, so probably they will have to leave that reservation in pursuit of their law enforcement careers. This is not an isolated example of the situation that we currently face in Indian country law enforcement.

Commendably, the President's 2007 budget request for Indian programs increases the BIA budget by $4.5 million. But that amount is not enough to maintain the current law enforcement activity on a daily basis in Indian country when you compare it to the 759 law enforcement officers that are missing from working in these crime areas where it is the most dangerous job in law enforcement.

There needs to be a 2007 budget line item that provides an additional $15 million either to the Department of Justice COPS grant program or to the BIA Office of Law Enforcement Service to help sustain these losses of law enforcement personnel on tribal reservations.

A new formula with a quality-of-life index needs to be developed for calculating Indian country public safety staffing levels which sets a baseline for minimum tribal law enforcement staffing levels for each tribal community. Funding should be based upon this formula.

The second major problem facing Indian country law enforcement today in public safety is the rise of methamphetamine abuse and violent crime in Indian country. Indian communities continue to be decimated by illegal drugs and alcohol abuse. Statistics suggest that approximately 85 percent to 90 percent of crime in Indian country derives from some form of illegal substance or alcohol abuse.

As with many non-tribal communities, tribal law enforcement officials have noted the growing trend of drug abuse in Indian communities is connected to methamphetamine. A prime example of this was made apparent by the United States Attorney for the District of Arizona in his press release of August 30, 2005. He said:

While methamphetamine use and distribution is not unique to Indian country, the use of methamphetamine within the Indian communities of Arizona has had a profound effect. A large percentage of violent crimes prosecuted by the U.S. Attorney's office involved individuals under the influence of methamphetamine or other illegal substances. It is our sincere hope and belief that reducing the availability of meth-

amphetamine within these communities will also bring a reduction in the number of violent crimes. It is a fight that we simply cannot afford to lose.

And I certainly echo what he said. It is a fight that we cannot afford to lose.

Add to that increased gang activities, which are rampant in many tribal communities, and it makes a little more clear picture of what devastation the loss of these law enforcement officers working in tribal communities is going to have with regard to the safety and security of our citizens.

Commendably, the President's 2007 budget designates the HHS to have $25 million in funding for a methamphetamine initiative. I hope Indian country is included within that initiative.

The third area of major concern in Indian country public safety is detention in Indian country. A 1997 report by the Department of the Interior and by the Department of Justice laid out the needs for funding to improve detention in Indian country, so this is not new. This is not something that just came on the scene. They said that you needed funding for operations, this is back in 1997, including staff, equipment, supplies, facilities including maintenance and renovation and new construction, inspection and oversight, training and technical assistance. Most of the jails in Indian country are old and unsafe. And 80 percent of funding needed for jails has to go to staffing of those people needed to operate and run those jails efficiently and effectively.

Our worst fears were brought to light when the Department of the Interior's Inspector General wrote the report, Neither Safe Nor Secure. Today, we look at the 2007 budget proposal for Indian country and we see that $8.6 million in DOJ Indian country prison grants were done away with, while DOI commits $8.1 million for four major facilities improvements and repair projects, and several smaller projects.

Currently, this last year we have closed four Indian detention facilities. We anticipate closing a fifth one within the very near future. If we are going to build four and we have already closed five, we are way behind the game. I suggest that this $8.6 million for DOJ grants for tribal detention facilities be reincluded in the budget for DOJ.

The last major concern currently on people's minds in Indian country is tribal homeland security. The foundation of homeland security is quality community law enforcement and effective, efficient, timely emergency services in the time of a crisis.

To have that foundation built for homeland security, you need to basically have four capabilities available. You need to have an operational emergency plan in place that is compliant and compatible with Federal, tribal, State, and local homeland security plans.

You need to possess the human, cyber, physical resources necessary to carryout the mission of law enforcement emergency service professionals during a crisis, according to the respective emergency plans.

And you must possess interoperable communications and you must possess the capability to share intelligence and information up and down the national intelligence networks.

Some tribes may possess a few of these basic four homeland security foundation principles and capabilities, but most do not.

NNALEA advocates direct funding to tribes from all Federal departments. The Department of Homeland Security currently directs all funding through States. There are some notable examples of States and tribes working together to utilize homeland security dollars to build tribal communities' and contiguous local counties' homeland security preparedness even across multi-State lines.

For the President's 2007 budget, we suggest that $250,000 be set aside for every State that has a tribe or Indian nation within that State to help them with regard to homeland security planning grants, because planning is the first phase of developing these four capabilities necessary.

In conclusion, a public safety crisis exists in Indian communities with regard to the loss of law enforcement officers and resources in Indian country, the rise of methamphetamine abuse and violent crime in Indian country, the timeliness of tribal detention improvements, and tribal inclusion in the homeland security funding initiatives.

Although NNALEA understands the difficult choices that must be made with regard to the fiscal year 2007 budget, NNALEA respectfully requests that Native Americans not be made to walk backward with regard to public safety. In the words of the great Sioux Chief Sitting Bull, "Let us put our minds together and see what kind of future we can build for our children."

I am happy to answer any questions you may have.

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

The CHAIRMAN. Thank you very much.

President Garcia, why do you want such a big increase in the BIA budget for Indian forests and forest management?

Mr. GARCIA. Thank you for the question, Senator. It is important to realize that there is not an equal funding for Indian forest lands compared to U.S. forest lands. It is important to understand also that as the Indian nations are emerging and are developing in their management, if the funds are not available to have an adequate infrastructure for management in place, then devastation may occur because of that ill-preparedness. So the funds are provided to help with developing the infrastructure and developing the management systems, it is imperative that the funding be there.

The CHAIRMAN. And with the drought that we are now back into in the Southwest, this could really be something. As you know in Arizona, we have already started the forest fires.

Mr. GARCIA. It is the same up in the Northwest and out through Alaska, that if we don't control the forest lands, and keep them in tune with as far as dealing with Mother Nature, we will see devastation. Also, there are forest units firefighting units that have been cut out of the picture. There is not a mention of that in the testimony, but that is the case throughout Indian country.

The CHAIRMAN. Ms. Kitcheyan, the budget request proposes to de-fund the Urban Indian Health Program. Did the department discuss this proposal with the tribes during your annual consultations?

Ms. KITCHEYAN. Sir, I was at a Phoenix-area meeting in Las Vegas and there were a couple of representatives from the urban health clinics, and they said that there was no consultation.

The CHAIRMAN. None?

Ms. KITCHEYAN. None.

The CHAIRMAN. So in an urban area like Phoenix, AZ or Albuquerque, NM or other States, maybe Denver, CO, this is huge, isn't it?

Ms. KITCHEYAN. Yes; absolutely. It is very huge. If we lose them, it will be very detrimental for those people that live in the cities. You know, they flock to the cities for employment and education and that was a policy of the Federal Government which was to assimilate them. That is kind of what they are doing.

The CHAIRMAN. Well, I think it is also interesting that I don't believe there was a commensurate increase in funding for community health centers.

Ms. KITCHEYAN. That is true, sir.

The CHAIRMAN. Thank you.

I think it is one of those, as I mentioned in my opening statement, that a proposed cut in programs that they know that Congress will restore the funding for, at least I hope that is the case here.

Mr. Wilson, elimination of Johnson O'Malley, you say that Johnson O'Malley does not duplicate other programs. The Department of the Interior has expressed concerns that the program does not have a focused goal for academic achievement. How does the Johnson O'Malley Program directly relate to academic achievement?

Mr. WILSON. Well, as I said, chairman, we respectfully disagree with the BIA' justification. I think the House of Representatives also agreed with us as they submitted in their report. They did not interpret that in the same way as the White House did last year when it was zeroed out. This historical context of JOM is very important to Indian country.

As I said, this act happened in 1934. When we seek scientific data to say how many young people have stayed in school for that or what was their academic progress, it is a difficult situation because there has never been funding to actually study that. What we are saying as tribes and as advocates for tribal opinions, is that they have identified this as a major concern. Our constituency, you know, they really value this particular program. I think to put a human face on it, I wonder sometimes because it is so flexible in its use, and it was designed originally for the educational, the medical relief of distress, and also the social welfare of Indians, it is hard to pinpoint that.

I wonder, would someone like Billy Mills have tennis shoes without JOM back then? We just had a beautiful young girl graduate from Red Cloud School in Pine Ridge named Joelle Janis, who became a Gates Millennia Scholar. I wonder how do you quantify that support from JOM that helped her in her life and where she is going on into higher education. There are thousands and thousands of young people like that that have been affected by JOM.

So I just respectfully answer your question that way.

The CHAIRMAN. Do me a favor, will you, and give me a written statement about the benefits and the focus of Johnson O'Malley.

Mr. WILSON. Absolutely.

The CHAIRMAN. I would appreciate it. Thank you very much.

Mr. WILSON. Thank you.

The CHAIRMAN. Ms. Parish, I understand there is billions of dollars of backlog in the requirement for sanitation infrastructure needs in Indian homes. How big is that, would you estimate?

Ms. PARISH. $1.9 billion, minimum.

The CHAIRMAN. $1.9 billion. And how would you go about addressing this issue, besides appropriating $1.9 billion?

Ms. PARISH. Excuse me for 1 second, sir.

If you wouldn't mind, sir, this is my director right here.

The CHAIRMAN. Go ahead.

Ms. PARISH. He is working also with Mr. Hartz.

The CHAIRMAN. Just identify yourself, sir.

Mr. GORDON. Yes, sir; my name is Gary Gordon. I am the executive director of the National American Indian Housing Council.

A couple of years ago, we did a research study. One of our annual projects under our NAHASDA funding is to conduct major research on an item affecting housing in Indian country. We focused on infrastructure and the need for infrastructure and the problems with developing the infrastructure. Part of the outcome of that was the development or the reestablishment of a task group which was a multi-Federal agency, multi-tribal task group, to identify the problems and how to correct those problems.

There is a MOU, memorandum of understanding, that has been developed and has been circulated among the agencies to work together for that purpose to identify how we can better utilize the dollars that are available, how we can identify additional sources of funding, and how we can streamline the process so that we can indeed build more infrastructure in Indian country so that we can put more housing out there. And not only housing, too, but other economic development which will support the housing, sir.

The CHAIRMAN. Would you send that to the committee so that we can have the benefit of that study?

Mr. GORDON. Yes, sir; we will.

The CHAIRMAN. Thank you very much.

Thank you, Ms. Parish.

Mr. Edwards, talk to me for 1 minute about methamphetamine and the seriousness of the crisis in Indian country. What is being done and how bad is it getting?

Mr. EDWARDS. It is getting worse on an hourly basis, primarily. It seemed to come in the Northern Plains and we had the largest impact in the Northern Plains area. There have been some major cases. There are multi-State cases where people actually approached the Indian communities as a business, realizing that we had some problems with substance abuse.

So therefore, they made small amounts of the meth and gave it to the kids. To Indian people, it is extremely addictive. From that, they married into the families and just started conducting a business. That was in Wyoming.

Then from that investigation, there was like six different States involving arrests across a border, and one of the brothers who started that particular business-type enterprise was sent to prison for life.

From there, from the Northern Plains, the meth problems in Indian country have evolved down to California, then out over into Oklahoma and then over into North Carolina. I was shocked be-

cause I am from the Eastern Band of Cherokee Indians when I found out on Friday the 13th of this year that a young girl who used to be in the Native American Boys and Girls Club on the reservation was found shot dead with her hands tied behind her back, with her head blown off. It was a matter relating to methamphetamine was the word that everybody is hearing. It was a gangland-style murder from possibly a gang out of Mexico.

A short time before that in the latter part of last year, another child from that reservation had all of his fingers cut off before they killed him. Again, that was from that same type of issue.

This is something that affects Native American communities I think more than any other communities within America. And it is not contained on Indian country. It comes usually outside the reservations onto the reservations and then splashes back. A lot of our tribal leaders, and I try to call and poll a lot of different chiefs of police and everything, say that if we don't get a grasp on this, it will totally wipe out a generation of our children for the future.

The CHAIRMAN. It is fairly easy to tell someone who is an addict, isn't it?

Mr. EDWARDS. Yes, sir; extremely, because of the effects that methamphetamine has on the body. When I was talking to some of the people out in the field, we talked about, well, how do you know that it is meth, or is it just some other type of substance abuse? They said usually it is a combination of the two. From the substance abuse, people get to partying and they have a good time, and then all of a sudden their body gets tired. And so they want to go and rest and sleep. That has been the general modus operandi of that. But then someone then will introduce meth and say, hey, we don't need to go home; we can just take this and you will be feeling good. And they will go for days, but their bodies still don't forget all the sleep deprivation that they have, and their aging process is enormously quick.

The CHAIRMAN. That leads to a lot of child neglect and abuse?

Mr. EDWARDS. It certainly does. The interesting thing about it, too, is that it mostly deals with property crimes. There are some violent outbreaks, but usually the violence in Indian country as it is associated with this is in combination with other types of illegal substances.

The CHAIRMAN. Well, I think, you know, Senator Dorgan has been very involved in the teen suicide issue. I don't think it is unconnected with some of that. Perhaps we ought to have another hearing on it and find out, because as you say, Indian country is most vulnerable, but non-Indian country is suffering dramatically, particularly in some rural areas as well. So it is a great challenge.

We thank you, Mr. Edwards.

We thank the panel.

Senator Dorgan.

Senator DORGAN. Mr. Chairman, thank you very much.

It is the case and I know it especially in the Northern Great Plains that methamphetamine is a devastating scourge on the population, and especially young people.

I think because of the time, I am going to defer asking questions, but I did want to make this point. I think having folks come to testify here today, tribal officials and experts dealing with housing

and law enforcement, health care, education, is very, very helpful to us. One of the things I would suggest, as the chairman has on a couple of occasions, you should feel free to send us supplemental information because this budget process goes on for a long period here. Both from the budget standpoint and the appropriations piece, we are talking about some months. I hope that as you evaluate your needs and as you see what we are doing here in the Congress, you will always feel free to send us supplemental information about what you are seeing and what you believe the needs are. That is very helpful to us.

Mr. Garcia, you are the new president of the Congress of American Indians. This I believe is perhaps your first time testifying since you have become president. We congratulate you and look forward to working with your organization.

I know that Tex Hall has been here. Tex is a two-time chairman, way in the back. I saw Tex come in and he has been working on these issues as well. He and so many other tribal leaders from all across this country have made a contribution to the knowledge of this Committee. We just want to thank him, and I did want to say hello to Tex Hall.

I thank all of you for coming. I know you have traveled some distance to be with us today, and we appreciate your testimony. I think it was outstanding. Thank you very much.

[Whereupon, at 4:51 p.m., the committee was adjourned, to reconvene at the call of the Chair.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF THE NATIONAL INDIAN HEAD START DIRECTORS ASSOCIATION

The President has proposed to flat fund the Head Start program at the fiscal year 2006 level of approximately $6.8 billion. Of this amount, according to law, 13 percent is set-aside for priority programs, with Indian Head Start statutorily established in the highest priority and typically receiving 2.8 percent of all Head Start funds. Unfortunately, and probably illegally, HHS has been diverting large portions of the priority set-aside to fund non-priority programs. When combined with the effects of inflation, the result of HHS's dubious conduct and the flat-funding is to severely limit the ability of the Indian Head Start program to serve tribal communities. At most, only 16 percent of the age-eligible Indian child population is enrolled in Indian Head Start. Of the approximately 555 federally recognized tribes, only 222 have Head Start programs. Needless to say, for the 333 that do not, 0 percent of the eligible children are served by Indian Head Start.

According to an analysis done by the National Head Start Association, the President's proposal would likely result in the equivalent of closing enrollment to at least 19,000 children nationwide. For Indian country, this would mean a loss of 499 slots in a program that now serves approximately 23,374 children. The President's proposal, if enacted, means that since fiscal year 2002 Head Start would have experienced an 11-percent real cut in Federal funding.

For several years, the National Indian Head Start Directors Association has been working to increase the size of the Indian Head Start set aside. The Senate Health, Education, Labor and Pensions Committee has marked up Head Start reauthorization legislation which would increase the Indian Head Start set aside to 4 percent. The House has passed legislation which would increase the set-aside to 3.5 percent.

Since the Indian Head Start set-aside is currently set administratively by the Department of Health and Human Services, NIHSDA asked HHS if it would follow the lead of the Congress and increase funding to the Indian Head Start program. HHS responded that it would not do so. It turns out that HHS has, for a number of years, inappropriately and probably illegally transferred 3 percent of the Congressionally mandated 13 percent set aside that funds Indian Head Start and other priority programs to non-priority programs.

The Head Start Act provides that 13 percent of Head Start funding is to be set aside for five priorities, which are set forth in order of their priority. The first, and therefore highest priority is funding for Indian Head Start and certain other programs. The next to last priority is for discretionary payments made by the Secretary of HHS (of which the law provides two examples of such payments, both minor in nature). Pursuant to this lower priority, HHS has for several years transferred nearly 3 of the 13 percent back to regular Head Start programs.

HHS has effectively reduced the 13 percent set aside to something around 10 percent. To do this, HHS would have had to make a cut in the other four priorities funded by the set-aside. On a pro rata basis, Indian Head Start should have been funded at approximately 3.7 percent and not the level established by HHS at ap-

proximately 2.9 percent. This means that HHS has reduced Indian Head Start funding by about $50 million per year.

There are solid policy reasons for boosting the Indian Head Start set aside including:

Indian reservations suffer from depression-era economics, with terrible crime and health statistics to match.

The Indian reservation poverty rate is 31.2 percent, nearly 3 times the national average of 11.6 percent. As much as an additional 30 percent of the Indian reservation population is only just above the poverty line.

The Indian reservation unemployment rate is approximately 50 percent, 10 times the national unemployment rate of 5.2 percent (and on some reservations the rate is 80–90 percent).

Most Indian communities are remotely located and there are no other resources besides Head Start to address the special needs of young Indian children who daily must deal with the conditions described above.

Because of these awful conditions:

The high-school dropout rate on reservations is more than 3 times the national average; The Indian suicide rate is four times greater than the national average; One in four Indians is an alcoholic by the age of 17. The rate of child abuse or neglect for American Indian or Alaska Natives is twice the rate for the White population. Native American women suffer violent crime at a rate 3½ times greater than the national average (USDOJ Report). The violent crime rate on some reservations is six times the national average.

These conditions are toxic to Native children. Indian Head Start is the best Federal program in place that actually addresses the dire situation in much of Indian country, but more resources are needed.

The Federal Government has a trust responsibility to Indian Peoples, especially in the education area. In 2004, President Bush signed an executive order on American Indian and Alaska Native Education [E.O. 13336], which specifically recognized that "The United States has a unique legal relationship with Indian tribes...." The order was promulgated in part "to recognize the unique educational and culturally related academic needs of American Indian and Alaska Native students..." President Bush's praise-worthy Indian education policy is in sharp contrast to the policy the Federal Government followed for years summarized by Captain Pratt, a leader in the establishment of Indian boarding schools: "A great general has said that the only good Indian is a dead one, and that high sanction of his destruction has been an enormous factor in promoting Indian massacres. In a sense, I agree with the sentiment, but only in this: that all the Indian there is in the race should be dead. Kill the Indian in him, and save the man. "This Federal effort to kill our minds and our spirits failed, but not without first doing great damage. Much of the harm inflicted upon Native peoples is being undone, to the extent it can be undone, by Native people themselves. And yet the resources needed to complete this great task can only be found with the originator of the harm—the Federal Government.

Both branches of Congress have determined that HHS funding of Indian Head Start is too low. After extensive review, and site visits, both branches of Congress have concluded, as described above, that Indian Head Start should receive more funding than is currently being allocated by HHS.

NIHSDA urges the Senate Committee on Indian Affairs to endorse:

An increase in the Indian Head Start set-aside to 4 percent;

A direction to the Department of Health and Human Services to cease its inappropriate, and probably illegal practice, of transferring large amounts out of the set-aside that funds Indian Head Start and other priority programs in order to fund non-priority programs; and

An increase in overall funding for Head Start by 3.4 percent or higher in order to keep pace with the actual rate of inflation.

Over the last 40 years, Indian Head Start has played a major role in the education of Indian children and in the efforts by tribes to heal from the wounds of the past. The results achieved by the Indian Head Start program are truly miraculous, notwithstanding all the hardships that remain in the Indian community. More than any other Federal program, the investment in Indian Head Start is an investment in the future of Indian people. Please support this extraordinary program. Thank you.

PREPARED STATEMENT OF CHARLES W. GRIM, D.D.S, M.H.S.A., ASSISTANT SURGEON GENERAL, DIRECTOR, INDIAN HEALTH SERVICE, DEPARTMENT OF HEALTH AND HUMAN SERVICES

Mr. Chairman and members of the committee:

Good Afternoon. I am Dr. Charles W. Grim, Director of the Indian Health Service. Today I am accompanied by Mr. Robert McSwain, Deputy Director of the IHS, Dr. Craig Vanderwagen, Acting Chief Medical Officer, and Mr. Gary Hartz, Director, Environmental Health and Engineering. We are pleased to have the opportunity to testify on the President's fiscal year 2007 budget request for the Indian Health Service.

As part of the Federal Government's special relationship with tribes, the IHS delivers health services to more than 1.9 million American Indians and Alaska Natives. Individual and public health services are provided in more than 600 health care facilities located primarily in some of the most remote regions of the United States. For all of the American Indians and Alaska Natives 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.

This mission is supported by the Department of Health and Human Services [HHS] and the IHS budget request reflects that support. To better understand the conditions in Indian country, senior Department and IHS officials have visited tribal leaders and Indian reservations in all 12 IHS areas. In addition, I have the pleasure of serving as the vice chair of the Intradepartmental Council on Native American Affairs [ICNAA] whose role is to assure coordination across HHS in support of American Indian, Alaska Native, and Native American health and human services issues. The Administration takes seriously its commitment to honor the unique legal relationship with, and responsibility to, eligible American Indians and Alaska Natives by providing effective health care services.

Through the Government's longstanding support of Indian health care, the IHS, in partnership with the people we serve, have demonstrated the ability to effectively utilize available resources to improve the health status of American Indians and Alaska Natives. The clearest example of this is the drop in mortality rates over the past few decades. More recently, this effectiveness has been demonstrated by the programs' success in achieving their annual performance targets as well as by the intermediate outcomes of the Special Diabetes Program for Indians. IHS programs have received favorable ratings through the Office of Management and Budget's Program Assessment Rating Tool [PART]. Some programs' PART scores are among the highest in the Federal Government.

Although we are very pleased with these achievements, we recognize that there is still progress to be made. American Indian and Alaska Native mortality rates for alcoholism, tuberculosis, motor vehicle crashes, diabetes, unintentional injuries, homicide, and suicide are higher than the mortality rates for other Americans. Many of the health problems contributing to these higher mortality rates are behavioral. For example, the rate of violence for American Indian and Alaska Native youth aged 12–17 is 65 percent greater than the national rate for youth.

The IHS and our stakeholders remain resolved and deeply committed to address these disparities. As partners with the IHS in delivering needed health care to American Indians and Alaska Natives, these stakeholders participate in formulating the budget request and annual performance plan. The Department holds annual budget consultation sessions, both regionally and nationally, to give Indian tribes opportunities to present their budget priorities and recommendations to the Department. This year during the budget consultation process tribal leaders provided us with what continue to be their top priorities—pay costs, increases in the cost of providing health care, and population growth. I am pleased to say that this budget, like the budget I presented last year, responds to those priorities by including the increases necessary to assure that the current level of services for American Indians and Alaska Natives is maintained in fiscal year 2007 and that new services associated with the growing American Indian and Alaska Native population are covered.

The President's budget request for the IHS totals $4.0 billion, a net increase of $124.5 million or 3.2 percent above the fiscal year 2006 enacted level. The request will allow IHS and tribal health programs to maintain access to health care by providing $41.4 million to fund pay raises for Federal and tribal employees, and $92.7 million to cover increases in the cost of delivering health care and to address the growing American Indian and Alaska Native population. Staffing and operating costs for four newly constructed health centers are also included in the amount of $32.2 million. Once they are fully operational, these facilities will increase the number of primary care provider visits that can be provided at these sites by 81 percent and allow the provision of new services such as 24-hour emergency room, optometry,

physical therapy, and audiology services. The request also includes additional funding of $11 million for the IHS costs for implementing the HHS Unified Financial Management System. This system is being implemented to replace five legacy accounting systems currently used across the HHS operating divisions. The UFMS will integrate the Department's financial management structure and provide HHS leaders with a more timely and coordinated view of critical financial management information.

To target these priority increases, the budget request eliminates funding for the Urban Indian Health Programs and reduces funding for Health Care Facilities Construction by $20.1 million. Unlike Indian people living in isolated rural areas, urban Indians can receive health care through a wide variety of Federal, State, and local providers. One health care provider available to low-income urban Americans is the Health Resources and Services Administration's Health Centers program which currently operates in all of the cities served by the Urban Health program and in hundreds of other cities where Indian people live. The budget requests, $2.0 billion for Health Centers in fiscal year 2007, allowing it to serve 1.5 million more urban Americans than it served in fiscal year 2004. The request for Health Care Facilities Construction is $17.7 million, sufficient to complete the construction of the Phoenix Indian Medical Center's Southwest Ambulatory Care Center. Since fiscal year 2001, a total of $364 million has been provided to complete 12 IHS health facilities. Consistent across HHS, no funds are requested in fiscal year 2007 to initiate new construction.

The proposed budget that I have just described provides a continued investment in the maintenance and support of the IHS and tribal public health system to provide access to high quality medical and preventive services as a means of improving health status. It reflects a continued Federal commitment to American Indians and Alaska Natives.

Thank you for this opportunity to present the President's fiscal year 2007 budget request for the IHS. We are pleased to answer any questions that you may have.

Charles W. Grim, D.D.S., M.H.S.A.

Assistant Surgeon General

Director
Indian Health Service

Charles W. Grim, D.D.S., is a native of Oklahoma and a member of the Cherokee Nation of Oklahoma. As the Director of the Indian Health Service (IHS), he is an Assistant Surgeon General and holds the rank of Rear Admiral in the Commissioned Corps of the Public Health Service. He was appointed by President George W. Bush as the Interim Director in August 2002, received unanimous Senate confirmation on July 16, 2003, and was sworn in by Tommy G. Thompson, Secretary of the Department of Health and Human Services (HHS), on August 6, 2003, in Anchorage, Alaska.

As the IHS Director, Dr. Grim administers a nationwide multi-billion dollar health care delivery program composed of 12 administrative Area (regional) Offices, which oversee local hospitals and clinics. As the principal federal health care provider and health advocate for Indian people, the IHS is responsible for providing preventive, curative, and community health care to approximately 1.8 million of the nation's 3.2 million American Indians and Alaska Natives.

Dr. Grim serves as the Vice-Chair of the Secretary's Intradepartmental Council on Native Americans Affairs (ICNAA). The ICNAA was established by the HHS Secretary to develop and promote HHS-wide policy to provide quality services for American Indians and Alaska Natives; promote Departmental consultation with Tribal Governments; develop a comprehensive Departmental strategy that promotes Tribal self-sufficiency and Self-Determination; and promote the Tribal/Federal Government–to-Government relationship on an HHS-wide basis.

Dr. Grim graduated from the University of Oklahoma College of Dentistry in 1983 and began his career in the IHS with a 2-year clinical assignment in Okmulgee, OK, at the Claremore Service Unit. Dr. Grim was then selected to serve as Assistant Area Dental Officer in the Oklahoma City Area Office. As a result of his successful leadership and management of the complex public health dental program, he was appointed as the Area Dental Officer in 1989 on an acting basis.

In 1992, Dr. Grim was assigned as Director of the Division of Oral Health for the Albuquerque Area of the IHS. He later served as Acting Service Unit Director for the Albuquerque Service Unit, where he was responsible for the administration of a 30-bed hospital with extensive ambulatory care programs and seven outpatient health care facilities. Dr. Grim was later appointed as the Director for the Division of Clinical Services and Behavioral Health for the Albuquerque Area. Dr. Grim was then appointed Acting Executive Officer for the Albuquerque Area.

In April 1998, Dr. Grim transferred to the Phoenix Area IHS as the Associate Director for the Office of Health Programs. In that role, he focused on strengthening the Phoenix Area's capacity to deal with managed care issues in the areas of Medicaid and the Children's Health Insurance Program of Arizona. He also led an initiative within the Area to consult with Tribes about their views on the content to be included in the reauthorization of the Indian Health Care Improvement Act, P.L. 94-437.

In 1999, Dr. Grim was appointed as the Acting Director of the Oklahoma City Area Office, and in March 2000 he was selected as the Area Director. As Area Director, Dr. Grim managed a comprehensive program that provides health services to the largest IHS user population, more than 280,000 American Indians comprising 37 Tribes. He was also a member of the Indian Health Leadership Council, composed of IHS, tribal, and urban Indian health program representatives.

In addition to his dentistry degree, Dr. Grim also has a master's degree in health services administration from the University of Michigan. Among Dr. Grim's honors and awards are the U.S. Public Health Service Commendation Medal (awarded twice), Achievement Medal (awarded twice), Citation, Unit Citation (awarded twice), and Outstanding Unit Citation. He has also been awarded Outstanding Management and Superior Service awards by the Directors of three different IHS Areas. He also received the Jack D. Robertson Award, which is given to a senior dental officer in the United States Public Health Service (USPHS) who demonstrates outstanding leadership and commitment to the organization. In a proclamation from the Oklahoma State Governor, June 11, 2003, was declared "Charles W. Grim Day." He was also honored by the State of Oklahoma by being selected as a Spirit Award Honoree during their American Indian Heritage Celebration on November 17, 2003.

Dr. Grim is a member of the Commissioned Officers Association, the American Board of Dental Public Health, the American Dental Association, the American Association of Public Health Dentistry, and the Society of American Indian Dentists. Dr. Grim was appointed to the commissioned corps of the U.S. Public Health Service in July 1983.

Gary J. Hartz, P.E.

Assistant Surgeon General
Director
Office of Environmental Health and Engineering
Indian Health Service

Rear Admiral (RADM) Gary J. Hartz is the Director of the Office of Environmental Health and Engineering (OEHE) with the Indian Health Service (IHS), an agency within the Department of Health and Human Services that is the principal federal health care provider and health advocate for American Indian and Alaska Native people. RADM Hartz oversees health care facilities and staff quarters construction, facility maintenance and operations, and realty. He also has responsibility for a comprehensive environmental health program including institutional environmental health, injury prevention, and sanitation facilities construction services throughout Indian country. He has direct responsibility for the IHS Facilities appropriation.

RADM Hartz began his career with the IHS in 1971. His first assignment as a Public Health Service (PHS) Commissioned Corps Officer and Field Engineer was with the IHS Navajo Area in Tohatchi, New Mexico, followed in 1974 with an assignment to the IHS Alaska Area in Ketchikan with responsibilities for sanitation facilities construction throughout Southeast Alaska. In 1977, he transferred to the IHS Headquarters in Rockville, Maryland, where he was subsequently promoted to positions of increasing responsibility within OEHE, including Chief of the Sanitation Facilities Construction Branch, Director for the Division of Environmental Health, and ultimately to his current position of Director, OEHE. He has also been in numerous special assignments such as the Technical Training Director for the Moroccan Peace Corps Volunteer Skill Training Unit, a Self-Governance negotiator, an agency witness before numerous congressional committees addressing budget and technical issues, and the agency designated representative to handle the first informal conference stipulated under Title V of the Indian Self-Determination and Education Assistance Act, P.L. 93-638, to a mutually agreeable solution.

In August 1998, RADM Hartz was named Acting Director for the Office of Public Health. The Office of Public Health had responsibilities for a wide range of health activities related to health leadership, policy development, and advocacy for American Indian and Alaska Native public health issues. He managed a staff that assisted the Agency on budget formulation and resource allocation regarding the operation and management of IHS direct, tribal, and urban public health programs; program evaluation and assessment; research agenda; and special public health initiatives for the Agency. In addition to the Division of Facilities and Environmental Engineering, the Office of Public Health also included the Division of Community and Environmental Health, the Division of Clinical and Preventive Services, and the Division of Managed Care.

During the period of IHS restructuring, RADM Hartz held the position of Acting IHS Deputy Director from August 2004 to February 2005. He shared the responsibility for management of a national health care delivery program responsible for providing preventive, curative, and community care for approximately 1.8 million of the nation's 3.2 million American Indians and Alaska Natives.

RADM Hartz received his bachelor of science degree in civil engineering from the University of North Dakota, Grand Forks, North Dakota. In 1977, he earned a master of science degree in civil engineering: construction engineering and management from Stanford University, Palo Alto, California. He also has completed postgraduate studies at Syracuse University, Syracuse, New York, and continued management development at the Federal Executive Institute and the Senior Managers in Government program at the John F. Kennedy School of Government at Harvard University. RADM Hartz is a registered professional engineer.

In May 2005, he was one of two U.S. representatives to the World Health Organization (WHO) in Geneva, Switzerland, to finalize the Third Edition of the WHO Guidelines for the Safe Use of Wastewater, Excreta, and Greywater. A recipient of numerous PHS and IHS awards and honors, RADM Hartz has received two Hazardous Duty Awards, two Isolated Hardship Awards, several Unit Citations, the Special Assignment Award, two Outstanding Service Medals, the Meritorious Service Medal, the Surgeon General Award for Exemplary Service, and the Distinguished Service Medal, the highest award of the Public Health Service. In 1986, RADM Hartz received the Department of Health and Human Services Federal Engineer of the Year Award presented by the National Society of Professional Engineers.

ROBERT G. McSWAIN, M.P.A.
Deputy Director
Indian Health Service

Robert G. McSwain, a member of the North Fork Rancheria of Mono Indians of California, became the Deputy Director of the Indian Health Service (IHS) in February 2005. The IHS, an agency within the Department of Health and Human Services, is the principal Federal health care advocate and provider for American Indians and Alaska Natives. The IHS is composed of 12 Area (Regional) Offices.

As the Deputy Director of the IHS, Mr. McSwain shares responsibility with the Director for the total management of a $3.8 billion national health care delivery program responsible for providing preventive, curative, and community care for approximately 1.8 million of the nation's estimated 3.2 million American Indians and Alaska Natives. This also includes the setting of overall agency priorities, policies, and strategic direction. Mr. McSwain provides significant input in managing the formulation, presentation, justification, and execution of the agency budget. His participation influences program and resource allocation decisions that impact the total Agency budget. Mr. McSwain is responsible for the development and justifications for testimony presented to Congressional appropriation and legislative committees. Along with the Director, he is a principal witness before such committees. Mr. McSwain also supervises the 12 IHS Area Directors.

Mr. McSwain began his career with the Indian Health Service in 1976 as Director for the IHS California Area Office. In 1984 Mr. McSwain was named Special Assistant to the Director, IHS, and assigned to long-term training at the University of Southern California at Los Angeles. In 1986, he was transferred to the IHS Headquarters in Rockville, Maryland, where he held positions of increasing responsibility and diversity, including: Director of the Division of Health Manpower and Training for the Office of Health Programs, Deputy Associate Director for the Office of Administration and Management, and Management Analysis Officer for the Office of the Director. From 1992 to 1997 he served as the Acting Associate Director for the Office of Human Resources. Mr. McSwain was selected as the Director of the Office of Management Support in March 1997. From August 2004 until January 2005, he served as the Acting Deputy Director for Management Operations.

After receiving an associate of science degree in accounting from Fresno City College in Fresno, California, Mr. McSwain obtained a bachelor of science degree in business administration (economics minor) from California State University - Fresno in 1969. In 1986 he earned a masters degree in public administration (health services administration concentration) and pursued doctoral studies in public administration from the University of Southern California - Los Angeles.

W. CRAIG VANDERWAGEN, M.D.

Assistant Surgeon General
Chief Medical Officer (Acting)
Indian Health Service

W. Craig Vanderwagen, M.D., began his career with the Indian Health Service (IHS), an agency within the Department of Health and Human Services (HHS), in 1981. His initial assignment was in the IHS Albuquerque Area Office as a General Medical Officer of the Public Health Service Commissioned Corps, at the Zuni Indian Hospital. He currently holds the rank of Rear Admiral.

In January 2001, he was selected as Acting Chief Medical Officer (CMO) of the agency. Dr. Vanderwagen's duties as CMO include providing medical advice and guidance to the Office of the Director and staff on American Indian and Alaska Native health care policies and issues. He is the primary liaison and advocate for IHS field clinical programs and community based health professionals. He provides national and international health care leadership and representation for the agency. In addition, he ensures that patient care and medical standards and concerns are represented in the decision-making process of the agency. Dr. Vanderwagen also establishes professional contacts with medical, education, and physician organizations.

Before assuming his duties as CMO, Dr. Vanderwagen served as the Director for the Office of Clinical and Preventive Services (OCPS), and was responsible for the full scope of clinical health care programs, including quality assurance and preventive programs. The OCPS issues technical and policy guidance for IHS direct and tribal health programs, for a wide variety of health care programs, including alcohol and substance abuse, dental services, diabetes and other chronic disease prevention, mental health, emergency medical services, nutrition and dietetics, nursing services, pharmacy services, and maternal and child health.

Dr. Vanderwagen has received many awards and commendations since he began working for the IHS. In September 1999, Dr. Vanderwagen was selected by the Surgeon General to a 4-year term as the Chief Professional Officer for the Medical Category of the U.S. Public Health Service (USPHS). This role is a critical leadership role in the USPHS and serves as the Deputy Chief Medical Officer for the USPHS in support of the Surgeon General.

Dr. Vanderwagen has been a consultant for the Pan American Health Organization on Indigenous health issues. He directed a portion of health care provided to Kosovar refugees during the Balkans conflict in 1999. He has also served as the Chief of Public Health for the Coalition Provisional Authority and the Ministry of Health in Iraq. In February 2005, he led the public health team deployed on USNS Mercy to Indonesia to assist in the Tsunami recovery. From August to November 2005, he led the federal health response to Hurricanes Katrina and Rita in Louisiana.

Dr. Vanderwagen is a board-certified family physician. He is published in several medical journals covering family practice, including, *Medical Education*, *Children Today*, and *Hospital and Community Psychiatry*. Dr. Vanderwagen is a frequent speaker to medical students and the general public on the techniques employed by the IHS to elevate the health status of American Indians and Alaska Natives.

Statement of Orlando J. Cabrera

Assistant Secretary for Public and Indian Housing
U.S. Department of Housing and Urban Development

Before the
Committee on Indian Affairs
United States Senate

February 14, 2006

INTRODUCTION

Mr. Chairman, Mr. Vice Chairman, and other distinguished Members of the Committee, thank you for inviting me to provide comments on President Bush's fiscal year 2007 budget for HUD's Indian housing and community development programs.

My name is Orlando Cabrera, and I am the Assistant Secretary for Public and Indian Housing. As you may know, I am a relatively new addition to the HUD team, and I look forward to working with this Committee on issues of importance to you and our clients. As PIH's Assistant Secretary, I am responsible for the management, operation, and oversight of HUD's Native American programs. These programs are available to 561 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 and community development activities. Our partners are diverse; they are located on Indian reservations, in Alaska Native Villages, on the Hawaiian Home Lands, and in other traditional Indian areas.

In addition to those duties, PIH's jurisdiction encompasses the public housing program, which aids over 3,000 public housing agencies that provide housing and housing-related assistance to low-income families.

It is a pleasure to 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 Native American reservations, on trust or restricted Native American lands, in Alaska Native Villages, and on the Hawaiian Home Lands.

This momentum needs to be sustained as we continue to work together toward creating a better living environment in Native American communities.

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 Native American tribes. HUD is committed to honoring this core belief in our work with Native Americans and Alaska Natives.

Increasing minority homeownership is one of the President's primary goals. HUD's Native American and Native Hawaiian housing and loan guarantee programs are the lynchpins for accomplishing this within Indian Country.

For example, during FY 2005, tribes and their TDHEs used Indian Housing Block Grant funds to build, acquire or rehabilitate 1,050 rental units and 5,455 homeownership

units. Each of these became a home to a Native American family. There have been recent successes with our loan guarantee programs too; and I will tell you more about this in a few moments.

The block grant and loan guarantee programs are important vehicles for achieving the Department's goal of reducing overcrowding in Native American communities by 10 percent over 10 years.

For several years now, we have updated you on the progress that tribes and TDHEs are making toward the obligation and expenditure of the funding appropriated for Native American programs. This year, we can report that the balances of grant funds outstanding for more than 3 years were reduced by more than 50 percent in both fiscal years 2004 and 2005. This represents substantial progress and indicates that tribes are increasing their capacity to comprehensively manage and grow their affordable housing programs. HUD's Office of Native American Programs (ONAP) has continued to develop new, more robust performance indicators to measure our progress and the progress of our grant recipients. At the same time, we are seeking to strengthen data collection capability to improve reporting and ensure that we can understand and communicate the rate of program fund obligations, expenditures, and production.

The Department is continuing to consult with tribal leaders and Native American housing officials on how we can improve and streamline data collection for the IHBG program and for the Indian Community Development Block Grant program.

BUDGET SYNOPSIS

Let me now turn to the President's budget request for FY 2007. This budget proposes a total of $695,990,000, specifically for Native American and Native Hawaiian housing and community development. There is $625.7 million authorized under the Native American Housing Assistance and Self-Determination Act (NAHASDA). Of that amount, approximately $620.1 million is for direct, formula allocations through the Indian Housing Block Grant program. $1.98 million in credit subsidy, which will leverage $14.9 million in loan guarantee authority, is proposed for NAHASDA's Title VI Tribal Housing Activities Loan Guarantee Fund. $57.4 million is for grants under the Indian Community Development Block Grant program, and $5.9 million in credit subsidy, which will provide $251 million in loan guarantee authority, is for the Section 184 Indian Housing Loan Guarantee Fund.

The Native Hawaiian community would receive, through the Department of Hawaiian Home Lands, $5.9 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 $43 million in loan guarantees.

Finally, there is a total of $3.8 million available for training and technical assistance to support the Native American and Native Hawaiian Housing Block Grant programs.

INDIAN HOUSING BLOCK GRANT PROGRAM

Adjustments have been made within the account for the Indian Housing Block Grant (IHBG) program to allow more funds to go directly to tribes. The FY 2007 budget includes $620,086,000 for the IHBG program. Reducing set-asides results in an increase in IHBG grant dollars available to tribes.

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 $3,465,000, which has provided the initial training and technical assistance to most grantees, enabling them to function effectively under NAHASDA.

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 $1,980,000 in credit subsidy to continue loan activities at previous levels.

The program's commitment rates have been somewhat lower than originally anticipated. Existing funding will provide over $14,938,825 in loan guarantee authority, which will be sufficient to cover current program needs.

SECTION 184 INDIAN HOUSING LOAN GUARANTEE FUND

The President's budget request for this program is $5,940,000. Each year, as required by the Credit Reform Act, the Section 184 Indian Housing Loan Guarantee Fund credit subsidy rate is re-calculated. The 2007 request will support $251,000,000 in loan limitation guarantee authority which, when added to existing funding, should be sufficient to cover current program needs.

The Section 184 program is a success and the Department believes that this program will continue to play a vital role in reaching the President's commitment to create 5.5 million minority homeowners by the end of this decade. HUD's Section 184 program addresses the special needs of Native Americans, making it possible for Indian families to achieve homeownership with market-rate financing. To improve the visibility of the program, in FY 2005, HUD decentralized its outreach efforts to tribes and lenders, which enabled the Department to connect with more of our clients at the local level. This new approach resulted in 634 new homeowners and more than $100 million in loan commitments in FY 2005. The loan commitment volume is up 68 percent over the year-end totals for 2004. The Department also implemented two new program initiatives that will have a profound impact on homeownership in Indian Country for years to come. The Interagency Memorandum of Understanding, executed by HUD with the Department of Agriculture and the Bureau of Indian Affairs (BIA) in 2004 has resulted in new BIA lease

approval and recording processes that will speed approval of leasehold interests and enhance the mortgage delivery system.

The second improvement, known as the expanded service area initiative, enables tribes to expand their HUD Section 184 service area to better meet the needs of tribal members living outside a tribe's historic service area. Twenty-two tribes in 18 states sought and received approval for expanded services areas in 2005.

The increase in loan guarantee limitation authority for the Section 184 program is a direct response to the recent growth in loan activity. The Section 184 program produced 1,253 new homeowners over the past two years. This trend has continued in FY 2006, with 224 loan guarantees worth $28.2 million completed in the first quarter. The FY 2006 1st quarter numbers represent a 58.4 percent increase in dollar volume of loan guarantees in a year-to-year comparison.

INDIAN COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

The President's FY 2007 request for the Indian Community Development Block Grant program is $57,420,000. As I mentioned, the Indian CDBG program will remain with the Department, and will continue to be administered in PIH by the Office of Native American Programs.

NATIVE HAWAIIAN HOUSING BLOCK GRANT PROGRAM

For FY 2007, the Department is requesting $5,940,000. There is a $299,000 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.

The Department of Hawaiian Home Lands (DHHL) has been an active partner; there are numerous affordable housing activities in process.

SECTION 184A NATIVE HAWAIIAN HOUSING LOAN GUARANTEE FUND

The budget request includes $1,010,000 for the Section 184A Native Hawaiian Housing Loan Guarantee Fund (Section 184A). The request will provide up to $43,000,000 in loan limitation 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.

This program is modeled after the Section 184 program, but originally it concentrated on infrastructure and other related activities. Over the past 6 months, the Department has been working with DHHL to finalize a lending agreement that will open the Section 184A program to individual Native Hawaiians. This agreement will enable

income- and credit-qualified Native Hawaiians to access private sector mortgage capital, backed by a federal loan guarantee, to finance homes on the Hawaiian Home Lands homestead leases they possess.

The Section 184A lending agreement supports the State of Hawaii's goal to increase homeownership among Native Hawaiians. DHHL introduced a plan to award 6,000 residential leases to Hawaiian Home Land beneficiaries over the next 5 years. The Section 184A Loan Guarantee program shares many of the characteristics of the Section 184 program. The Department anticipates a high level of interest from individual Native Hawaiians when Section 184A becomes available to them later this year.

Presenting FY 2006, including carryover funds, there is $190,867,000 in loan guarantee 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 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.

FORMULA ALLOCATION NEGOTIATED RULEMAKING

Two weeks ago we held our final Formula Allocation Negotiated Rulemaking Committee meeting. The formula, which was created under NAHASDA and fleshed out in its implementing regulations in 1998, required revisiting and updating. After extended deliberations, the Committee brought forward over 20 proposals, and reached consensus on about half. The public comments made on the proposed rule were reviewed and considered by the Committee at this meeting. It was an arduous and challenging process, and I commend all Committee members, tribal leaders and members of the public for their dedication. Before the end of this fiscal year, we will publish the final rule implementing all the changes agreed upon by the Committee.

I am committed to holding the next negotiated rulemaking as expeditiously as staffing and resources allow.

CONCLUSION

Finally, let me state also for the record that the President's budget request for HUD's Indian and Native Hawaiian housing programs, and for the Native American community development program, supports the progress being made by tribes and the Native Hawaiian community in providing the housing needed for America's indigenous peoples.

This concludes my prepared remarks. I would be happy to answer any questions you may have.

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-1000

OFFICE OF CONGRESSIONAL AND
INTERGOVERNMENTAL RELATIONS

MAR 10 2006

The Honorable Byron L. Dorgan
Vice Chairman
Committee on Indian Affairs
United States Senate
Washington, DC 20510-6450

Dear Senator Dorgan:

Thank you for your letter of February 17, 2006, which requests responses to a number of questions related to the testimony given on February 14, 2006, by Public and Indian Housing Assistant Secretary Orlando J. Cabrera. Your questions are repeated below, followed by the Department's responses.

QUESTION: *What is the Department's rationale for requesting the continuation of bill language included in last year's HUD appropriations Act that amends the NAHASDA funding formula to require that HUD distribute funds on the basis of single-race or multi-race data, whichever is the higher amount?*

RESPONSE: The Fiscal Year (FY) 2006 HUD Appropriations Act (2006 Act) contains a provision directing HUD to implement what is commonly known as the "hold harmless" provision. This calls for the Need component of the Indian Housing Block Grant (IHBG) formula to be calculated twice for each tribe, once using single-race data and once using multi-race data. Each tribe is then awarded the higher of those two amounts.

In addition, the Senate Report accompanying the 2006 Act directs HUD to engage in notice-and-comment rulemaking to determine the public's views on this issue. HUD is following these directives.

The Department has determined that the best course of action to follow is to continue the methodology provided in the 2006 Act. This will ensure stability and continuity in the way that IHBG recipients receive their formula funding.

QUESTION: *Wouldn't it be preferable to consider whether changes are appropriate to the funding formula as part of the NAHASDA reauthorization process, which we will be engaged in in the 110th Congress?*

RESPONSE: Rather than wait until reauthorization of the Native American Housing Assistance and Self-Determination Act (NAHASDA) is addressed, the Department chose to continue to follow the will of Congress by proposing that the "hold harmless" provision, currently used for distributing the Need portion of the IHBG formula, continue to be used. This will ensure that grant recipients can expect continuity and stability for their IHBG funding until Congress determines what statutory changes, if any, it will enact during the reauthorization process.

QUESTION: *The FY 2007 budget request proposes to eliminate funding—in both the Native American Housing Block Grant and the Community Development Block Grant Program—provided to the National American Indian Housing Council for training and technical assistance to tribes and tribally-designated housing entities. Please describe for the Committee the mechanism(s) through which the National American Indian Housing Council seeks and secures funding for this training and technical assistance.*

RESPONSE: For each year that funds are set aside in an appropriations act to fund it, the National American Indian Housing Council (NAIHC) develops a statement of work (SOW), identifying, in general, all of the activities it plans to accomplish with the funds appropriated. NAIHC submits the SOW and a budget to HUD's Office of Native American Programs (ONAP). ONAP then prepares a Cooperative Agreement, which must be signed by an official from NAIHC and by the Assistant Secretary for Public and Indian Housing. Activities in the SOW may proceed after the Cooperative Agreement is signed by both parties.

If processing of the Cooperative Agreement is delayed, and NAIHC makes a request, HUD can provide approval for NAIHC to incur costs under the Cooperative Agreement prior to final approval, so that NAIHC's schedule of activities is not impacted. ONAP has requested on several occasions that NAIHC submit its SOW and budget earlier in the fiscal year so that the funds can be obligated and the activities can begin earlier in the fiscal year.

QUESTION: *Is training and technical assistance funding provided to the Council as a lump sum, or held in an escrow account, or does the Council approach HUD with each request for assistance?*

RESPONSE: For each year in which funds are set aside in an appropriations act for the NAIHC, the appropriated funds are obligated through the Cooperative Agreement to NAIHC in the full amount appropriated (minus any rescission).

On a monthly basis, NAIHC submits an invoice for review and payment. After HUD approves an invoice, the amount of funds from that invoice are deposited electronically in NAIHC's bank account. NAIHC can request funds more frequently, if desired. The only limitation is in accordance with 24 CFR 85.20 (b)(7), which requires a grantee to minimize the time between the transfer of funds from the U.S. Treasury and disbursement by the grantee.

Thank you for your interest in the Department's programs. If I can be of further assistance, please let me know.

Sincerely,

L. Carter Cornick III
General Deputy Assistant Secretary
for Congressional and
Intergovernmental Relations

STATEMENT
OF
JAMES CASON
ASSOCIATE DEPUTY SECRETARY
AND
ROSS O. SWIMMER
SPECIAL TRUSTEE FOR AMERICAN INDIANS
BEFORE THE
SENATE COMMITTEE ON INDIAN AFFAIRS
ON THE
FISCAL YEAR 2007
PRESIDENT'S BUDGET REQUEST FOR INDIAN PROGRAMS

February 14, 2006

Good afternoon, Mr. Chairman, Mr. Vice Chairman and Members of the Committee. My name is Jim Cason and I am the Associate Deputy Secretary of the Department of the Interior (Department). With me today is Mr. Ross Swimmer, Special Trustee for American Indians at the Department.

We are here today to discuss the Department's fiscal year (FY) 2007 budget for Indian programs. Our budget request is consistent with the President's goal to reduce the deficit while providing quality services to Indian Communities. Before we get into specifics of our respective budgets, we would like to highlight several accomplishments. We have:

- Since 2001, built ten new schools, with 27 more currently in design or under construction.
- Generated over 6,464 jobs during the past four years through the Bureau of Indian Affairs (BIA) Loan Guarantee and Insurance Program.
- Reengineered trust business processes and successfully converted the legacy systems at the Southern Plains Region to integrate information technology (IT) systems for title, leasing and trust fund accounting during 2005. This region will serve as the model for the implementation of the Fiduciary Trust Model at all other BIA regions.
- Continued our focus on enhancing Indian trust beneficiary services by placing three of the 50 Fiduciary Trust Officers in urban locations, and opening the toll-free Trust Beneficiary Call Center, which received over 75,000 calls in its first year and freed up over 3,800 hours of time to agency staff to focus on other program responsibilities.
- Acquired a total of 202,775 fractionated interests in land, the equivalent of 228,837 acres, through the Indian Land Consolidation Project (as of December 31, 2005).

The President has proposed a $10.5 billion budget for the Department. The FY 2007 budget request for the BIA is $2.2 billion, which is $52.4 million below the FY 2006 enacted budget. Of that total amount, the Operation of Indian Programs account is funded at $1.97 billion, an increase of $4.4 million. In an effort to improve budget and performance integration, the BIA, after consultation with the Tribes, presented the Operation of Indian Programs account in a restructured format. The revised structure groups budget programs by function rather than organization. The new format facilitates budget analysis as programs can be viewed comprehensively to understand the breadth of each program. In the previous budget structure, funding for the same program could appear in several different locations in the budget. The new structure strengthens performance measure by grouping program elements that impact the same performance goals.

The budget request for the Office of the Special Trustee for American Indians (OST), which includes funding for the Office of Historical Trust Accounting (OHTA), is $244.5 million, an increase of $21.7 million or 10 percent above the FY 2006 enacted level. This is a reduction of $3.7 million to OST's operating budget and an increase of $25.4 million to Indian Land Consolidation. The FY 2007 request will support ongoing activities administered by OST and OHTA to improve beneficiary services, continue implementation of the Fiduciary Trust Model (FTM), expand Indian land consolidation efforts, and continue historical accounting activities.

Over one-half of OST's budget is pass-through funding that directly supports BIA land consolidation activities and other Department programs, such as the historical accounting. The remaining funds support OST's operating expenses. The FY 2007 request reflects an overall decrease in OST's operations funding from FY 2006 due to cost savings achieved.

The FY 2007 budget request for Indian Affairs continues the Department's commitment to reform trust management and provides increases to strengthen Indian self-determination, enhance education, address law enforcement issues, and support the development of energy resources in Indian country.

The Unified Trust Budget -- Fulfilling Trust Responsibilities

Congress designated the Department as the trustee for one of the most complex and diverse governmental land trusts ever established. The Department manages approximately 56 million acres of land held in trust. Over ten million acres belong to individual Indians and nearly 46 million acres are held in trust for Indian Tribes. On these lands, the Department manages over 100,000 leases for individual Indians and Tribes. Leasing, use permits, land sale revenues, and interest, all of which total over $300 million per year, are collected for approximately 277,000 open individual Indian money accounts. About $500 million per year is collected in 1,450 tribal accounts for some 300 Tribes. In total, the Department manages retained deposits of approximately $3 billion in tribal funds and $400 million in individual Indian funds.

The $1.7 billion that the Department has used in managing trust programs over the past four years brings the Department's ten-year expenditure in trust management, reform and improvement to $3.4 billion. The 2007 budget request would provide an additional $536 million

investment in these programs, including a net program increase of $30.2 million over the FY 2006 enacted level.

The *Cobell v. Norton (Cobell)* litigation that has been pending since 1996 has had a profound effect on the Department, including the budget for Indian programs. For example, and as you may be aware, on January 26, 2006, Interior sent out a letter to tribal leaders advising them of an unexpected decrease in financial resources, which could affect program activities, due to a ruling in the *Cobell* case. In response to plaintiff's motion for attorney fees pursuant to the *Equal Access to Justice Act*, the U.S. District Court issued an Order requiring prompt payment of a "total Interim Fee Award" of just over $7 million to plaintiff's attorneys.

This was not a planned expense. As these funds must come from already appropriated funds, Interior considered a range of options to comply with the Court's Order. We eventually utilized several sources of funds to pay the fee award: the BIA contributed $3 million ($2 million from an account used to reimburse tribal attorney's fees, and about $1 million generated by a 0.1% across-the-board retention of program funds); the OHTA contributed $2 million; OST contributed $300,000; and, the Department of the Treasury contributed the balance of about $1.766 million.

For FY 2007, the Secretary has requested funding to fulfill her trust responsibilities and meet the requirements of ongoing litigation within a budget that is fiscally responsible. We look forward to working with this Committee in pursuing a resolution to this costly litigation.

During this Administration, we have closely examined how we manage individual Indian trust land and individual Indian money (IIM) accounts, and made organizational and programmatic changes that reflect a better understanding of the fiduciary trust responsibility owed to beneficiaries. The Department now spends 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 is separate from the costs associated with litigation of the *Cobell* case.)

In our trustee-delegate capacity, the Department must administer its fiduciary trust responsibility in a manner that differs from private sector practices. For example, the government must manage *every* account with equal care, regardless of the size of the account. Clearly, the costs of managing accounts with as little as one cent in them far exceed the benefits that accrue to the beneficiaries of those accounts. This issue does not arise in the private trust banking industry because individuals pay for trust services and obviously would refuse to continue a trust relationship where fees are significantly higher than the revenues generated by their trust asset. The Department is currently exploring various regulatory and statutory changes that would introduce some common sense into the management of Indian trust assets and help eliminate the wasteful and illogical costs associated with *de minimus* accounts.

The FY 2007 unified trust budget includes funding to continue historical accounting, to support the re-engineering and reorganization of trust programs, to continue eliminating the backlog of unresolved probate cases and to consolidate fractioned interests in allotted lands. These issues are explained below:

- **Historical Accounting** – In 1994, Congress passed *the American Indian Trust Fund Management Reform Act of 1994*. The Act requires the Secretary of the Interior to "account for the daily and annual balance of all funds held in trust by the United States for the benefit of an Indian Tribe or an individual Indian, which are deposited or invested pursuant to the Act of June 24, 1938 (25 U.S.C § 4011 (a))." The Department is currently involved in the *Cobell* litigation, and approximately 31 tribal lawsuits associated with the management of Indian trust funds.

  On November 15, 2005, the United States Court of Appeals for the District of Columbia Circuit issued a ruling that vacated a February 23, 2005, structural injunction imposed by the District Court in the *Cobell* litigation that called for an alternative transaction-by-transaction accounting for all transactions back to 1887, and was expected to cost from $10 to $12 billion. The Court of Appeals ruling specifically sanctioned the use of statistical sampling as part of the IIM historical accounting. We are pleased the Court of Appeals upheld the position of the Department, and that our detailed and comprehensive plan to conduct a statutorily-mandated historical accounting was supported by the decision.

  On January 6, 2003, as ordered by the court in the *Cobell* litigation, the Department filed *The Historical Accounting Plan for Individual Indian Money Accounts (IIM)*. At the time of filing, the plan had an estimated cost of $335 million using both transaction-by-transaction and statistical sampling reconciliation techniques to develop assurances of the accuracy of the statements of account. The historical accounting addresses three distinct types of IIM accounts: judgment and per capita IIM accounts, land-based IIM accounts, and special deposit accounts.

  Interior is considering modifying its January 6, 2003 accounting plan, based on the information now available from the work of the past three years, and the recent Court of Appeals decision vacating the District Court's structural injunction. The process will consider lessons learned from work already completed, removal of the structural injunction, statistical sampling parameters, and accounting costs.

  As of December 31, 2005, OHTA had reconciled more than 50,000 judgment and over 15,000 per capita accounts of the 99,500 judgment and per capita accounts (including some with no balance). OHTA has mailed over 12,000 historical statements of judgment and per capita accounts to individual Indian account holders and former account holders. By motions filed on March 25, 2005, the Department has been seeking permission to mail an additional 28,000 historical statements of account are ready to be sent to account holders. By the end of 2006, OHTA will reconcile an additional 16,500 judgment accounts and 6,500 per capita accounts – bringing the total of reconciled judgment and per capita accounts to about 88 percent.

  Through December 31, 2005, OHTA also has resolved residual balances in over 9,500 of the nearly 21,500 special deposit accounts, identifying the proper ownership of more than $48 million belonging to individual Indians, Tribes, and private entities. By the end of 2006, OHTA expects to identify the proper ownership of nearly $50 million (cumulative)

in residual special deposit account balances.

Despite claims that few records exist, our work to collect, image and store records at the American Indian Records Repository (AIRR) over the past few years has demonstrated that far more records exist than anyone anticipated when the accounting began. Of the estimated 300-400 million pages of records at AIRR, OHTA also has imaged, coded and loaded into the Accounting Reconciliation Tool (ART) more than nine million pages of relevant fiduciary trust records representing over 634,000 documents in support of IIM accounting, and reconciled nearly 8,000 land-based IIM transactions using the ART system.

OHTA has also determined variance rates and dollar differences in accounts for the electronic records era (approximately 1985 through 2000) as a result of the Litigation Support Accounting Project completed in fiscal year 2005. This project involved reconciliation work on high-dollar transactions (those equal to or in excess of $100,000), and on a national sample of transactions (statistically selected from those under $100,000) in land-based IIM accounts. A report on the project was delivered to OHTA on September 30, 2005, that included these findings:

- Over 99 percent of the random sample of transactions have been reconciled to the supporting documentation for all twelve BIA Regions.

- Statistically, no evidence was found to suggest that the under- and over- payments occurred at different rates. Under-payments and over-payments can occur on both the debit and credit side of the ledger, and while there is a higher overall error rate on the credit side of the ledger, under- and over-payments occurred at the same rate, and distribution of the difference amount is statistically equivalent.

These findings, along with other accounting efforts, identify no evidence of systemic accounting failures or fraud.

The Department proposes $56.4 million in 2007 for historical accounting. This amount will provide approximately $39.0 million for IIM accounting and $17.4 million for tribal accounting. This amount may be revised depending on the outcome of any further court rulings in the *Cobell* case or Congressional action. Thus far, the Department has expended more than $100 million in its historical accounting effort and has found ample evidence that most monies collected for individual Indians were distributed to the correct recipients.

- **Fiduciary Trust Model –** The OST budget continues to provide funding to implement the Fiduciary Trust Model (FTM) priorities, including: re-engineering the Department's fiduciary trust business processes and universal support functions to ensure the fulfillment of fiduciary trust goals and objectives; and, reducing fractionated individual Indian trust land interests.
  The main emphasis of the FTM is to bring a beneficiary-focused approach to Indian trust management. For years, the Indian trust was treated like any other government program

than as a trust in which the Department has a fiduciary duty to manage assets on behalf of beneficiaries. Coupled with the fractionation of Indian land, which generates more and more owners of smaller and smaller interests, this approach resulted in a gradual distancing of the trustee from the beneficiary. The FTM attempts to eliminate this distance by providing programs and personnel who will ensure that meeting the needs of beneficiaries is the driving force in how we conduct business.

To help provide a stronger beneficiary focus, OST has added Fiduciary Trust Officers (FTOs) and Regional Trust Administrators (RTAs) to its staff. FTOs are the primary points of contact for trust beneficiaries at the agency level. They allow other Department staff to devote more time to process transactions, lease land, ensure lease compliance and prepare probates for adjudication. FTOs conduct beneficiary outreach meetings to provide information to the beneficiaries on the status of trust reform, and to answer their questions. OST employs about fifty FTOs and six RTAs with extensive backgrounds in fiduciary trust management. RTAs supervise the work of FTOs, oversee trust account management and coordinate trust activities with BIA regional directors.

One very successful FTM initiative involves improving beneficiaries' access to trust information. The toll-free Trust Beneficiary Call Center is a central resource for answering beneficiary questions, and giving prompt, reliable information. During the first year of operation, the Call Center handled more than 75,000 calls. We were able to address 90 percent of the inquiries during the initial call, leaving only ten percent to refer to trust officers for further action. This new level of efficiency in providing information to beneficiaries resulted in over 3,800 hours of employee time being freed up to the field to increase workload capacity in other program areas.

In partnership with the Bureau of Land Management and the BIA, 12 specialized cadastral surveyors have been hired to provide services for tribal governments, individual Indians, and BIA employees concerning boundary surveys, land ownership, resource management, and other survey matters related to Indian trust and fee lands. The new surveyors will also provide assistance in partitions, legal description reviews, boundary inspections and water boundary issues. This is the first time cadastral surveyors will be based at the BIA regional offices, directly available to manage the backlog of survey issues and needs in Indian country.

In 2005, a new Probate Hearings Division was created within the Office of Hearings and Appeals (OHA) dedicated exclusively to Indian probate adjudications. Combined with new probate business processes and focused efforts to distribute probate funds, we are working to address the probate backlog, streamline the current probate process and update trust information for improved beneficiary service.

Also in 2005, the Department completed a successful systems and business process conversion project at the BIA's Concho and Anadarko agencies in Oklahoma. At these pilot sites, the Department introduced improved systems to process work, substantially eliminate backlogs in recording vital information into the title system, and move to a more efficient distribution of probates. In addition, the Department has developed

statements for all beneficiaries served by the two sites, which include more detailed information on their trust assets and trust income. These pilot agencies will now serve as the models for the next agencies to convert. Following the success of these initial conversions, the Department has embarked on an ambitious roll-out schedule to have all agencies converted to the new systems by the end of CY 2007, utilizing the lessons learned from the conversion and continued perfection of the process. Other agencies in the Southern Plains region completed their conversion and cleanup earlier this year.

Phase One of a new "lockbox" procedure for collecting lease payments on Indian trust land is now fully implemented nationwide. The lockbox is a commercial processing center that receives, processes and deposits all remittances for trust land. This new procedure provides a number of benefits: the local BIA agency will not be required to handle receipts; there will be less risk of loss; a more timely deposit of funds in a beneficiary's account; and improved records and accountability of payments. Phase Two of the lockbox will be implemented as agencies convert to the integrated IT systems, and will allow for a funds receivable system that automatically generates payment invoices that are sent to lessees and distributes funds that are received.

OST is regularly conducting beneficiary outreach at different agencies to provide information on trust reform and locate Whereabouts Unknown (WAU) account holders. OST recently hired a contractor to assist in locating WAU. As of December 31, 2005, there were 44,692 WAU accounts with a combined balance of about $64.3 million.

- **Land Consolidation –** The OST budget includes $59.4 million to continue the nationwide purchase of fractionated land interests through BIA's Indian land Consolidation Program, an increase of $25.4 million from the FY 2006 appropriation. This level of funding will provide for the expansion of the acquisition program. Acquisition of these fractionated interests increases the likelihood of more productive use of the land, reduces the large numbers of small dollar financial account transactions, and decreases the number of interests that must be probated by the Department. This program will now focus on ten tribal reservations in five BIA regions, and will target specific tracts of land. As of December 2005, 202,775 individual Indian interests had been acquired – equivalent to 228,837 acres.

  The FY 2007 funding is anticipated to result in the acquisition of about 80,000 additional undivided interests. The Department will use this funding and the new tools provided by Public Law 108-374, the *American Indian Probate Reform Act of 2004*, which becomes effective on June 20, 2006, to further address fractionation.

Contract Support

This program supports the Department's goal of serving communities by promoting American Indian and Alaska Native self-governance and self-determination by strengthening and stabilizing the administrative structures of tribes and tribal organizations currently contracting or compacting under the authority of Public Law No. 93-638, as amended, which authorizes Federally recognized tribes to contract or compact programs currently operated by the BIA.

The BIA budget proposes an increase of $19.0 million to fully fund indirect costs for contracting Tribes. Full funding of contract support costs encourages tribal contracting and promotes progress in achieving Indian self-determination. Contract support funds are used by tribal contractors to pay a wide range of administrative and management costs, including, but not limited to, finance, personnel, maintenance, insurance, utilities, audits, communications, and vehicle costs.

Indian Education

BIA is one of only two agencies in the federal government that manages a school system, the other being the Department of Defense. Education is critical to ensuring a viable and prosperous future for tribal communities and American Indians. Our top priority is to provide quality educational opportunities.

The school operations budget represents a continued commitment to the future of American Indian youth and supports the President's commitment to "leave no child behind." The FY 2007 budget request of $518.2 million for elementary and secondary school operations will support 184 schools and dormitories serving almost 48,000 students and resident only boarders. The $103.2 million the BIA requests for post-secondary schools will support two BIA and 24 tribal colleges and universities. Bureau-funded schools also receive funding from the Department of Education and other sources.

In that regard, the BIA and the Department of Education continue to work together to improve service delivery of programs that benefit Indian students. The BIA is accountable for developing strategies, monitoring, and helping Bureau-funded schools achieve adequate yearly progress (AYP) targets. AYP is the accountability system under the *No Child Left Behind Act* (Public Law 107-110) that measures student proficiency in math, reading, and language arts. Student performance at BIA schools, while improving, remains lower than the national average. In school year 2004-2005, 30 percent of the BIA schools met the measure for AYP. BIA worked with Tribes and tribal school boards to develop a program improvement and accountability plan to improve the effectiveness of the education services provided in the Bureau-funded school system.

The FY 2007 BIA budget includes $2.5 million to meet the objectives of the program improvement and accountability plan. The BIA is aligning education offices in the field and in headquarters in a more centrally coordinated organization. The program will provide the oversight necessary to promote progress in student achievement in all schools. The organizational structure establishes new leadership positions, placing senior executives in strategically located educational line offices to strengthen accountability. A mix of data, contract, and financial specialists will provide system-wide services allowing school administrators and teachers to focus on student needs.

Funding for post-secondary education totals $103.2 million in the FY 2007 budget. The BIA budget includes funding for grants to 24 tribal colleges and universities (TCU), Haskell University and the Southwest Polytechnic Institution, at approximately the same level as FY

2006.

BIA believes that juveniles temporarily detained in detention centers are less likely to repeat offenses if they have the opportunity to stay current with their academic instruction. The Indian education budget includes $630,000 to establish education programs for juveniles housed at the 20 Bureau-funded juvenile detention centers. The funding will support contracts that provide educational instruction to these students on an interim basis, as needed.

The FY 2007 BIA budget request proposes to eliminate $16.4 million in Johnson-O'Malley (JOM) grants. JOM funds are distributed by the Tribes to address Indian student needs in local public schools. These grants are duplicative of other Federal and State assistance programs and do not address a focused goal for academic achievement. The elimination of these grants will allow the BIA to focus its resources on the requirements of the Bureau-funded school system, while also reducing redundancy with other Federal programs.

Indian School Construction

The FY 2007 budget request is $157.4 million for school construction and repair, $49.3 million below the FY 2006 enacted level. The budget will fund new projects while allowing the program to focus on building the schools already funded for construction.

The BIA school construction program provides funding to replace, rebuild, and repair BIA funded schools so Indian children have safe and nurturing places to learn. Between FY 2001 and FY 2006, the President and Congress have provided $1.6 billion for the Indian education program, funding replacement of 37 schools and major facility improvement and repair projects at 45 schools. Of the 37 replacement schools funded between 2001 and 2006, ten of these have been completed and another 19 are scheduled to be completed in 2006 and 2007. Of the 45 major facility improvement and repair projects funded between 2001 and 2006, nine have been completed and 25 are scheduled to be completed in FY 2006 and FY 2007.

The FY 2007 budget request includes $36.5 million for replacement school construction. These dollars will complete funding for the Muckleshoot Tribal School in Washington and fully fund the Denneshoto Boarding School in Arizona. The education construction account also includes $41.3 million for Facilities Improvement and Repair (FI&R) projects, and $50.7 million for annual maintenance.

The FY 2007 budget proposes a new budget sub-activity, Replacement Facility Construction, to conform to the recommendations of the Inspector General's report on the use of facility improvement and repair funds. This new sub-activity will fund replacement of individual buildings on school campuses when entire new school facilities are not needed. Often times, it is more economically prudent to replace a structure than to repair or rehabilitate it, but replacement of a structure is classified as construction, rather than facility improvement and repair. In FY 2007, the $26.9 million proposed for this sub-activity will fund the replacement of four buildings.

Public Safety and Justice in Indian Country

The BIA provides direct assistance to Tribes for law enforcement programs, including uniform patrol, criminal investigations, detention, and dispatch on approximately 56 million acres of Indian Country in 34 States.

Law enforcement and security issues continue to mount in Indian Country even as solutions are attained. The Department of Justice (DOJ), under a joint DOJ-Interior initiative, has provided funding to build or expand 21 detention facilities in Indian country. In September 2004, the Office of the Inspector General (IG) released an assessment of Indian detention facilities which documented poor conditions at other Bureau-owned facilities. The BIA has responded to the IG report by expanding its detention center construction program. The FY 2007 budget continues to aggressively confront this issue by requesting $8.1 million for four major Facilities Improvement & Repair projects and several smaller projects to continue to bring Indian detention centers up to national standards.

The FY 2007 BIA budget request also includes $4.5 million for law enforcement activities in Indian country. The increase includes $1.8 million to expand law enforcement programs in areas where violent crime is most severe and $2.7 million to staff, operate, and maintain the detention facilities built with DOJ funding that will be certified for occupancy in 2007.

Economic Development

High unemployment on reservations is one of the greatest challenges facing Indian Country. In recognition of the significant potential and benefits related to increased energy development on Indian lands, the FY 2007 budget proposes $2 million for Indian energy resource development as outlined in the *Energy Policy Act of 2005* (Public Law 109-58). Funding includes $1.4 million for grants to Indian Tribes for energy development activities including energy inventories, feasibility studies, tribal energy resource agreements, training, and development of tribal energy codes. Funding also includes $600,000 for BIA oversight including approval of Tribal Energy Resource Agreements, and technical assistance.

Resolving Land and Water Claims

The $33.9 million BIA budget for Indian Land and Water Claim Settlements includes $23 million for two new settlements. The Snake River Water Rights Act of 2004 (Public Law 108-477) requires that the Department provide the Nez Perce Tribe and the State of Idaho $170.9 million to fund water supply, habitat restoration, and other purposes. The BIA portion of the settlement is $95.8 million over seven years.

The FY 2007 BIA budget includes $14.8 million for payments to the Nez Perce Tribe Water and Fisheries Fund, Nez Perce Tribe Salmon and Clearwater River Basins Habitat Account, and the Nez Perce Tribe Domestic Water Supply Fund. The BIA budget also includes $7.5 million for the first of two payments for the Rocky Boy's Water Systems Operation, Maintenance, and Replacement Trust Fund. The total authorization for the trust fund is $15 million. Reductions for the Colorado Ute, the Zuni, and Quinault Indian Nation land and water settlements which

were completed or almost completed in FY 2006, totaling $23.1 million, offset the increase requested for the new settlements.

These settlements resolve long-standing claims to water and land issues by Indian tribes. They are the result of negotiations between the tribes, the Federal government, and other interested parties that have been ratified by the Congress. While the specific provisions of each settlement differ, most contain multi-year funding commitments.

Program Assessment Rating Tool

Finally, I want to mention that, as part of the 2007 budget formulation process, the Housing Improvement, Indian Irrigation Operations and Maintenance, Dam Safety and Dam Maintenance, and the Guaranteed Loan programs within the BIA were evaluated using the Program Assessment Rating Tool. The assessment found the Housing Improvement program has had problems with management oversight, but has begun efforts to improve by developing standards to maintain program consistency in all regions. The Irrigation program was directed to develop an inventory of facility conditions, and the Dams program was found to collaborate effectively with other Federal, state, and tribal organizations for the safe operations of dams nationwide. The Guaranteed Loan program was found to address a specific and unique challenge to Indian country by providing financial services for small business development.

Conclusion

Mr. Chairman, thank you for the opportunity to appear before you today. We will be happy to answer any questions you may have.

Senator Dorgan

Payment of Cobell Attorney Fees Out of Indian Program Funds

QUESTION 1: Can you explain why the Department paid the $5.3 million of a recent award of attorney's fees to the plaintiffs in the *Cobell v. Norton* litigation out of Indian program funds, rather than out of designated accounts the Department already has for the payment of litigation costs?

ANSWER: On December 19, 2005, the United States District Court for the District of Columbia ordered that defendants (the Departments of Interior and Treasury) in *Cobell v. Norton* make prompt payment for awarded attorney fees and costs pursuant to the Equal Access to Justice Act to reimburse plaintiffs through Phase 1.0 Proceedings in the amount of $7,066,471.05. The court was silent on payment distribution by the defendants. Subsequent discussions between the Departments determined that the Department of Treasury would pay $1,766,471.05 of the fee, and the balance of $5.3 million would be paid by Interior.

The Equal Access to Justice Act provides that the defendants are responsible for paying the award to the plaintiffs and that the funds cannot come from the Judgment Fund.

The Office of the Special Trustee for American Indians, Federal Trust Programs Appropriation, Program Operations and Support Activity, Trust Records program, includes approximately $3.6 million for *Cobell* and tribal litigation support costs. However, by the time this court-ordered fee was approved, the $3.6 million (as well as additional funds) had already been committed to provide for the ongoing litigation support costs associated with the *Cobell* and 31 other pending tribal trust lawsuits. These ongoing litigation support costs provide reimbursements to the Department of Justice for document production related costs associated with these cases, as well as to the Office of the Solicitor to support Interior and the Department of Justice in these ongoing litigation efforts.

In part, Interior's payments came from funds designated for litigation costs. Funding in the amount of $5.3 million was provided as follows:

- $3.0 million from the Bureau of Indian Affairs, Operation of Indian Programs (OIP) appropriation, of which $2.0 million was taken from funds available in the Indian rights protection attorney fees program, and $1.0 million was taken from an across the board reduction of one tenth of one percent in the OIP appropriation programs except for Education, Public safety and Justice, certain specific program earmarks in Community Development programs and fixed costs such as rent, workers compensation, and intra-governmental payments. Approximately 90 programs within the appropriation were

impacted, with only two of the reductions exceeding $100,000 and 63 percent being under $5,000.

- $2.3 million from the Office of the Special Trustee for American Indians, Federal Trust Programs appropriation, of which $2.0 million was taken from funds available for historical accounting and $300,000, was taken from funds available for continued trust reform implementation.

QUESTION 2: Doesn't the Office of the Special Trustee have a litigation costs fund for the Cobell litigation that is part of the Office of Trust Records budget? Is it not true that there was $3.7 million in that fund in FY 2006, which has not been used yet?

ANSWER: The Office of the Special Trustee for American Indians funding for the Trust records management program does include approximately $3.6 million for ongoing litigation support costs associated with the *Cobell* and tribal trust litigation cases. As the fiscal year is only partially completed, all costs related to litigation support have not been obligated. However, as noted in the response to the question above, the $3.6 million included within the OST program appropriation for this purpose are committed for litigation support.

QUESTION 3: Why is $15.5 million in unobligated FY 2006 appropriations available? What is it anticipated those funds will be used for? Couldn't those funds have been used for the Cobell attorney fees award?

ANSWER: Appropriations in the Federal Trust Programs account are appropriated to remain available until expended. Due to the scheduling of work and contracts for reform efforts, funds may not always be fully obligated each year, and are used in the following year to continue or complete tasks. There currently are unobligated balances available from FY 2005 in the amount of $15.5 million. The major purposes or tasks that these funds will be utilized for in FY 2006 are as follows:

- $4.0 million for data clean up and reconciliation as part of the conversion of additional BIA agencies to the Fiduciary Trust Model-integrated TFAS and TAAMS systems.

- $2.8 million for historical accounting to continue ongoing efforts to address both IIM and tribal accounting.

- $2.4 million for adjudication of BIA probate cases by the Office of Hearings and Appeals. OHA will use these funds, in addition to 2006 funding to address the increased cases being submitted by BIA in 2006 and 2007.

- $1.9 million for BIA probate staff and contractor costs to address the effort in 2006 to reduce the 24,000 case workload.

- $1.0 million for additional contract costs associated with services provided to OST for human resources, finance, acquisition management and other areas.
- $1.1 million for additional litigation support costs provided by the Office of the Solicitor and Department of Justice.
- $1.0 million for operations support costs associated with the National Indian Programs Training Center.
- $500,000 for support costs associated with increased 638 contract negotiations costs and outreach activities to trust beneficiaries.
- $400,000 for appraisal services activities.
- $300,000 for OST's portion of court ordered attorney's fees.

As noted above, much of the carryover funding is used to continue ongoing efforts or contracts related to historical accounting, data clean up, probate backlog, and other increased litigation expenses. The decisions to utilize these carryover funds in many cases were made prior to the court ordered attorney fee costs, and contract award activities are already underway.

QUESTION 4: What is the amount of carryover funds from FY 2005 for the Office of Special Trustee and from the Department in general?

ANSWER: The amount of carryover funds from FY 2005 for Federal Trust Programs was $15.5 million. The planned use of these funds is addressed in the previous question.

With regard to the amount of carryover for the Department in general, with the exception of the accounts in the Bureau of Reclamation, the various no-year and multi-year accounts in the Department had an unobligated balance of $1,933 million as of the end of September 2005. The amount included the following:

Program Accounts	Amount ($ in million)
Construction	661
Land Acquisition	221
Wildland Fire	128
Land Management Operating Accounts (BLM, NPS, FWS)	117
BIA and OST (excludes construction and education, which are broken out	198

separately)	
BIA Education	188
Grant Programs	303
All Other	117
Total	1,933

It should be noted that no-year or multi-year accounts fund projects and programs that require more than one year to complete, such as construction or land acquisition.

Johnson O'Malley

QUESTION 5: What programs at the Department of Education provide similar services as the Johnson-O'Malley program and how much of the funding of those programs is available and actually used for similar services?

ANSWER: The JOM program provides funding to non-tribal schools serving Native American students from federally recognized Tribes. The Department of Education has programs that provide funding for purposes similar to JOM grants.

Federal Grants to Public Schools for Indian Education ($ million)

Funding Agency	2004	2005	2006	2007 Req
Bureau of Indian Affairs				
Johnson O'Malley Grants	16.7	16.5	16.4	0.0
Department of Education				
Grants Benefiting Indian Children	120.9	119.9	118.7	118.7
Impact Aid to Indian Districts (est.)	548.4	554.8	547.9	547.9
Total Federal Grants	**685.9**	**691.2**	**683.0**	**666.6**

Impact Aid for Indian districts estimated at 45% of Total Impact Aid.

The Indian Education Grants to non-tribal local educational agencies funds grants to improve education opportunities for Indian students in public schools. The activities funded under this program are similar to those funded by the JOM program, and tribes as well as schools are eligible to apply for the grants. The type of programs or services JOM and Indian Education Grants support include tutoring, counseling, cultural activities, summer education programs, and career days.

Impact Aid is directed to local school districts that have Federal and Indian land because property taxes cannot be collected on this land. The school districts decide how to use the funds.

QUESTION 6: I understand that one reason BIA has proposed to eliminate the JOM

program is that there is no performance data on the program. Why is there no such data?

ANSWER: All JOM funding is provided to tribes, tribal organizations and through contracts. No standard performance indicators have been developed for JOM programs because of the diverse nature of supplemental education programs. The approximately 230 JOM tribes turn in annual reports to education line offices, with the report format and performance indicator data varying widely.

QUESTION 7: Even if BIA thought eliminating JOM made sense, why didn't you propose to move the $16.4 million for that program to another Education program, or even Education construction?

ANSWER: During the 2007 budget formulation process, Indian Affairs leadership, in consultation with the tribes, evaluated the purpose and performance of each BIA program. The budget incorporates our highest priorities on a nationwide basis and the programs that meet the outcome goals of the Department's strategic plan.

Education Management

QUESTION 8: Will you explain how the proposed $9 million increase for Education Management will affect education line offices in the field and, in particular, the impact on North and South Dakota?

ANSWER: The $9 million increase in Education management is made up of a transfer of $4.3 million for the Education Native American Network-II (ENAN-II) and $4.5 million to realign education offices and meet the staffing requirements identified in the Program Improvement and Accountability Plan.

The restructured education program will provide the oversight capacity necessary to assist schools in their efforts to make progress in student achievement. The new organizational structure establishes new leadership positions and realigns BIA education offices in the field and headquarters to a more centrally coordinated organization. The offices in North Dakota and South Dakota will have a more balanced workload under the new structure, with one education line office in North Dakota and two in South Dakota.

Senior executives will be placed in strategically located in regional offices, along with the appropriate mix of data, contract, and finance specialists. Adding senior level leadership in regional offices will strengthen accountability. Establishing dedicated data, contract and finance specialists to provide system-wide services will also allow school administrators and teachers to focus on student needs.

Welfare Assistance

QUESTION 9: The Welfare Assistance Program is proposed for elimination. What is the rationale for eliminating this program, since surely there cannot be a drop in the number of welfare assistance cases?

ANSWER: The Welfare Assistance program is not proposed for elimination but it is proposed to be reduced by $11 million, a decrease of 13 percent. The proposed reduction eliminates funding for individuals who are unemployed yet deemed employable. The 2007 budget retains $74.2 million in funding for over 32,000 cases.

Education Construction

QUESTION 10: Please describe what is envisioned by the new sub-activity within Education Construction to fund replacement individual buildings versus funding entire new school facilities.

ANSWER: The creation of the new sub-activity, Replacement Facility Construction, conforms to the recommendations of the Department of the Interior's Inspector General report on the use of Facilities Improvement and Repair funds. This new subactivitiy will fund replacement of individual buildings on school campuses when full replacement of the school is unwarranted. Oftentimes, replacing existing structures is more economically prudent than an extensive repair project. The prior practice had been to fund such partial replacement projects through the Facilities Improvement and Repair activity. The Inspector General recommended that the budget should more clearly distinguish between these projects and projects involving repair of existing structures.

Beginning with Fiscal Year 2006, the Bureau has justified its cuts to school construction funding by blaming poor construction project management, both by the Bureau and the tribes.

QUESTION 11: What efforts is the Bureau taking to improve construction management at the Bureau and tribal levels?

ANSWER: The Bureau of Indian Affairs (BIA) has taken the following steps to improve the construction management program:

1. Started the planning phase of construction projects two years prior to the anticipated year of appropriation.
2. Initiated new criteria of construction management capacity by Tribes so that only experienced, financially sufficient and experienced Tribal entities are eligible to manage construction through the Public Law 93-638 contracts and grants.
3. Initiated training of construction managers through co-operative agreements between universities and the BIA.
4. Requesting budgets that reflect BIA and tribal management capacity.

QUESTION 12: The Bureau is considering adopting standardized school plans for new school construction. How will the standardized construction plans take into consideration the varying geographical, cultural, and population needs of each tribal community?

ANSWER: The standard design of school facilities will begin with uniform design for classrooms, including window sizes, floor plans, ceiling lighting, perimeter lighting, white board placement, computer connection placement, library and kitchen facilities, as well as standard functional electrical, water and heating/cooling systems. The school layout will include core facilities and the number of classrooms can be increased depending of the number of students. More classrooms and larger libraries, for instance, can be added within the same basic layout. The foundation and other structural elements will be dependent on local geography and weather. The façade of the facility will reflect cultural influence and the location of the school.

Facilities Improvement and Repair

QUESTION 13: How many major School Facilities Improvement and Repair projects will be funded in Fiscal Year 2007 with the requested level of funds, a $48.2 million cut below the FY 2006 enacted level?

ANSWER: The 2007 budget request for Facilities Improvement and Repair is $92.1 million, a program decrease of $21.3 million below the 2006 enacted level. The budget includes an internal transfer of $26.8 million to the new budget line item Replacement Facility Construction, which funds individual buildings on school campuses when entire new facilities are not needed. The creation of the new line item conforms to the recommendations of the Inspector General on the use of Facilities Improvement and Repair funds. This shift of funds from one line item to another is not a program reduction.

The 2007 request for Facilities Improvement and Repair will fund two major Facilities Improvement and Repair projects, deferred and annual maintenance needs, and minor repair projects. The minor repair projects will address critical health and safety concerns, non-compliance with code standards, and program deficiencies at existing education facilities.

QUESTION 14: What level of funding would be needed to address the backlog of major Facilities Improvement and Repair projects?

ANSWER: The President's budget includes $92 million for Facilities Improvement and Repair, which provides sufficient funds for school repair needs that can be expected to be used effectively during the fiscal year. .

Law Enforcement

QUESTION 15: Are the proposed increases for BIA Law Enforcement – both for staffing and new detention facilities, and for BIA Law enforcement officers and equipment to be allocated at locations with the most serious crime for BIA or tribal law enforcement officers, or for both.

ANSWER: The proposed increases will be used to hire and equip both tribal and BIA law enforcement officers in the areas of greatest need and to hire BIA detention personnel for new detention facilities funded by Department of Justice construction grants that will become operable in 2007.

Question 16: How will those funds for law enforcement be distributed?

ANSWER: The distributions will be based upon a comparative analysis of law enforcement programs, and will look at staffing ratios, crime statistics, and special issues facing the community such as illegal drugs, methamphetamine labs, and international border problems. The distribution will then be determined by looking at the need and how much of that need we can reasonably fund.

***Cobell* Litigation**

QUESTION 17: How much money has the Department spent, by fiscal year, defending the Cobell litigation since the lawsuit was filed?

ANSWER: The accounting systems of the bureaus have not been tasked with accumulating costs associated with each bureau's specific costs associated with the Cobell lawsuit. However, what can be provided is the funding provided as part of the Office of the Special Trustee for American Indians account, which has funded most of the litigation support costs associated with the Cobell and tribal lawsuits.

In addition to the OST costs, many bureaus have absorbed millions of dollars of costs associated with staff time and printing to respond to document production, or prepare for testimony in court.

Appropriated litigation support funds for OST by fiscal year from 1996 through 2005 are listed below.

Fiscal Year	Amount Appropriated ($ in millions)
1996	2.697
1997	0.427
1998	6.847
1999	16.454
2000	3.600
2001	8.758

2002	1.343
2003	1.533
2004	2.428
2005	3.676
Total	**47.763**

Of this total amount, less than $122,000 remained unobligated as of the end of FY 2005. Amounts above include funding for both Cobell and tribal litigation support costs included within the OST records program. In addition, additional funds have been obligated by the Office of Historical Trust Accounting, BIA and other bureaus to address costs associated with both Cobell and tribal litigation cases, but which are not captured separately within those bureau accounting systems. $3.6 million has also been appropriated within the OST account for Litigation support in FY 2006.

QUESTION 18: How much money has the Department spent, by fiscal year, on reconciliation efforts related to trust accounts at issue in the Cobell litigation?

ANSWER: While costs are not compiled within either the Bureau of Indian Affairs or Office of the Special Trustee for American Indian appropriations for program assistance in this effort, what can be reported is the funding specifically programmed within the Office of Historical Trust Accounting for reconciliation efforts related to individual Indian Money accounts at issue in *Cobell v. Norton*.

By the end of FY 2005, approximately $136 million has been appropriated for historical accounting activities, which includes both individual and tribal accounting functions. Of this amount, approximately $2.6 million has not been obligated.

The current accounting system does not provide a separate breakout of costs between individual or tribal accounting efforts. However, funds within the OST appropriation for individual Indian money accounting as part of the Office of Historical Trust Accounting are as follows:

Fiscal Year	Amount Appropriated ($ in millions)
2001	9.978
2002	8.500
2003	13.276
2004	40.550
2005	47.564
Total	**119.868**

QUESTION 19: Has the court endorsed the Department's efforts and procedures used in these reconciliation efforts?

ANSWER: The District Court for the District of Columbia has endorsed some of the Department's reconciliation methodology proposed in the Department's January 2003 plan, while rejecting several other significant provisions of the Department's proposed plan. For example, the District Court endorsed the methodology set out in Interior's Accounting Standards Manual, that was referenced in the plan. Conversely, the court rejected the use of statistical sampling to verify certain transactions, as proposed in the January 2003 plan. The District Court's structural injunction (reissued on February 23, 2005) greatly expanded the scope of Interior's historical accounting plan both as to the number of accounts requiring reconciliation and as to the number of transactions requiring independent verification of ledger entries as part of the accounting process. The District Court's structural injunction called for a transaction-by-transaction accounting for all transactions back to 1887, which was expected to cost from $10 to $12 billion.

On November 15, 2005, the United States Court of Appeals for the District of Columbia Circuit issued a ruling that vacated the February 23, 2005 structural injunction for the second time. The Court of Appeals ruling specifically approved the use of statistical sampling as part of the IIM historical accounting, which supports the Department's efforts and procedures.

Elimination of a Provision Tolling the Statute of Limitations on Trust Fund Mismanagement Claims

QUESTION 20: Why does the Department propose deletion of the provision in the Interior appropriations Act that provides that the statute of limitations would not commence on trust fund mismanagement claims until the affected tribe or individual has been furnished with an accounting from which it can determine whether there has been a loss?

ANSWER: This provision was recently interpreted by the Court of Appeals for the Federal Circuit to revive stale claims dating back to 1946. *Shoshone Indian Tribe v. United States*, 364 F.3d 1339 (Fed. Cir. 2004). The Department believes that the Federal Circuit's interpretation is not what Congress intended and proposes to delete the rider to prevent the continued revival of long-moribund claims that substantially increase the potential liability and litigation burden of the United States. The courts have suggested that in some contexts accrual or a claim may be postponed until the claimant knew or should have known that the claim existed, further reducing the need for this rider. However, if the provision is reinserted in future appropriation Acts, courts may continue to breathe new life into stale claims.

The landscape has changed dramatically since the rider was first enacted with respect the amount of information Indian trust beneficiaries now have about their trust funds. On the tribal side, the Department employed the Arthur Andersen accounting firm, which spent more than a decade reconciling the tribal trust accounts. The Department provided the reconciliation reports prepared by Arthur Andersen to all of the Tribes. The Department and the accountants met with the Tribe that were interested and made detailed presentations, explaining the results of the reports and the methodologies that were applied. The Department also performed analysis following the completion of the Arthur Andersen reconciliation project that resulted in adjustments to some of the reconciliations and provided the adjusted data to the affected Tribes.

In addition, since 1995, the Department has furnished the Tribes with regular statements of accounts of their trust fund monies that are received by the Office of Trust Funds Management. These statements include information on cash receipts, disbursements, investment activity (e.g., securities purchased, matured, interest income earned), transactions, and adjustments. Since the year 2000, quarterly statements that detail receipts, disbursements, transactions and adjustments have also been provided to individual Indian money (IIM) account holders. Given this significant change in what Indian trust beneficiaries now know or should know about their accounts, the Department believes that it is no longer fair or reasonable to artificially toll the statute of limitations.

QUESTION 21: Doesn't the deletion of this language limit tribes and individual Indians from bringing trust fund mismanagement claims regarding activities that occurred prior to 2000?

ANSWER: Deletion of this language limits tribes and individual Indians from bringing mismanagement claims only to the extent that it brings them back under the framework of the regular statute of limitations for such claims and the deadlines that it imposes. Any claim that remained timely in 1990 at the time of the first appropriations rider was tolled by that and successive riders. Thus, although some claims from before 1990 might be affected if the rider is not reenacted, claims from 1990 to 2000 will remain available until expiration of the applicable limitations period.

QUESTION 22: Has the Department provided all tribes and Indian individuals with accountings, from which the beneficiaries can determine whether there has been a loss?

ANSWER: The Department has provided all tribes with copies of the tribal trust fund account reconciliation project reports and results. As discussed above in response to Question 20, the Department has also undertaken an extensive effort to explain these reports and results to tribes, to meet with tribes to discuss these materials, and to supply tribes with relevant supporting or underlying materials. The

Department has also been engaged with and providing funding to a consortium of tribes to review, evaluate, and expand upon the tribal trust fund reconciliation project.

The Department has also provided historical accountings to some 12,000 Individual Indian Money (IIM) account holders with per capita or judgment accounts. Since the end of 2000, all individual Indians have been receiving regular statements of accounts showing current activity. The Department has also asked the Court for permission to mail another 28,000 historical statements of account for judgment and per capita accounts, and is prepared, with the Court's approval, to mail an additional 40,000 historical statements of account.

Senator Cantwell

Education

QUESTION 1: Many tribes and schools rely on funding from the Johnson O'Malley program to provide tutoring, make available school supplies, offer incentives and field trips to Native American students. However, the President proposes eliminating the JOM program. This critical program is designed to meet the unique needs of Native American students and the federal government has a responsibility to help strengthen resource capacity, not weaken proven programs. Moreover, the federal government must uphold its policy of Self-Determination. In the BIA budget, the JOM program gives tribes flexibility in budget expenditures, ensuring tribal control over Indian education.

QUESTION A: Is the Department of the Interior planning to cut the JOM program?

ANSWER: The FY 2007 President's Budget request includes a proposal to eliminate the Johnson O'Malley (JOM) funding.

QUESTION B: Please describe in detail what impact you believe loss of funding for JOM will have in Indian Country.

ANSWER: There will be a minimum reduction of program benefits for Indian students attending non-tribal public schools. Programs within the Department of Education that benefit Indian school children will continue to be available for similar supplemental education programs for Indian students. BIA schools, which do not benefit from JOM grants, will not be affected by the elimination of JOM.

QUESTION C: What specific impacts will cuts or elimination have on current programs servicing Washington State tribes?

ANSWER: We have no way of measuring the impacts the elimination of JOM will have on the current programs servicing Washington State tribes since the public schools do not report their information to the Bureau of Indian Affairs or the tribes.

2. Comprehensive education reform includes the need for safe and modern school facilities. However, many BIA schools are rundown. The poor physical conditions or these schools often include environmental risks, facilities requirement deficiencies, such as information technology capabilities. Yet, the Administration proposes to decrease school construction funding by almost $50 million for FY 2007.

QUESTION A: Is this cut based on any specific report or analysis conducted by the BIA? If so, please provide a copy of this analysis.

ANSWER: When developing the budget we looked at how many schools were in the planning, design, and construction phases as well as the financial management

data that showed this program continues to carryover an unobligated balance. Of the 37 replacement schools funded between 2001 and 2006, 10 of these have been completed and another 19 are scheduled to be completed in 2006 and 2007. The amount requested in the budget will enable the BIA to focus on completing school construction already underway and initiate several new construction projects.

QUESTION B: How will this cut effect specific treaty obligations to Washington State tribes?

ANSWER: The reduced funding request does not effect treaty obligations. The 2007 budget fully funds the replacement of the Muckleshoot Tribal School in Tukwila, Washington.

QUESTION C: How will the Department provide enough direct funding to address BIA school repair needs and fulfill its trust responsibility to the Tribes?

ANSWER: The 2007 budget provides sufficient funds for school repair needs and trust programs that can be expected to be used effectively during the fiscal year.

Senator Murkowski

QUESTION 1: Last year we passed the Alaska Lands Transfer Acceleration Act, which was intended to complete the conveyance of lands that were due from the Federal government to the State of Alaska as well as the Alaska Native Corporations. The goal of this legislation was to complete these transfers by the 50th anniversary of statehood. That anniversary is coming up in just a few short years. In order to complete these conveyances, we've got to have adjudication of Native allotment applications. I need to know whether your Department believes they have the sufficient resources to do the job.

ANSWER: The Alaska Lands Transfer Acceleration Act (Pub. Law No. 108-452), enacted in December 2004, provides tools, such as deadlines for priorities, that should facilitate finalization of Alaska land patterns by 2009. While the fiscal year (FY) 2007 budget request for the Alaska Land Transfer Program is a slight decrease over the FY 2006 request and Congressionally-enacted level, the BLM has managed to add staff positions, increase productivity, and become more efficient since passage of the Acceleration Act. Although the BLM projects that there will still be 1,600 pending allotments remaining to be processed at the beginning of fiscal year 2007, allotment applications that are in conflict with village and regional selections are and will continue to be the highest adjudication and survey priority for BLM. Also, in 2007, BLM plans to patent or close selections on 500,000 acres to Alaska Native Corporations and 500,000 to the State of Alaska.

QUESTION 2: Can you explain to me why the BIA is not proposing the renewal of the $349,000 grant to Alaska Legal Services to support the Native Allotment program? Again, this is the legal entity that is doing the processing of these applications. Apparently the program was zeroed out.

ANSWER: Alaska Legal Services provides legal representation and counseling to Alaska Native Allotment applicants and heirs and advocates on behalf of Alaskan Natives who have not received allotment claims. The Bureau's 2007 budget proposes elimination of the $394,000 Congressional increase relating to Alaska Legal Services. The proposed decrease will not impact the base funding for the Alaska National Interest Lands Conservation Act or Alaska Native Claims Settlement Act programs. Allotment applicants will continue to receive assistance and support services through BIA Realty Service Providers.

QUESTIONS SUBMITTED BY THE COMMITTEE

QUESTIONS SUBMITTED BY SENATOR DORGAN

Impact of Elimination of Johnson-O'Malley Program

Question: What Department of Education programs provide supplemental education services to Indian children—such as afterschool programs that provide tutoring and counseling—and how much funding do those programs receive?

Answer: The Department of Education programs listed below are available specifically to serve Indian students in public schools and may be used to provide supplemental education services such as tutoring and counseling.

Program	FY 2006 estimate	FY 2007 Request
Indian Education Grants to LEAs	$95.3 million	$95.3 million
Indian Education Special Programs	$19.4 million	$19.4 million
Alaska Native Education Equity	$33.9 million	$33.9 million
Vocational Education	$14.8 million	$0
English Language Acquisition	$ 5 million	$ 5 million

Indian students attending public schools also benefit from supplemental educational services provided through broader formula-based Federal programs, listed below, such as ESEA Title I Grants to Local Educational Agencies, IDEA State Grants, and 21st Century Community Learning Centers. For example, under the Title I program, each school that has been identified as in need of improvement for two or more years must offer its low-income students the opportunity to receive after-school tutoring or other supplemental educational services. As a second example, the 21st Century Community Learning Centers program provides almost $1 billion for after-school programs.

Program	FY 2006 total appropriation	FY 2007 Request
ESEA Title I Grants to LEAs	$12.7 billion	$12.7 billion
21st Century Community Learning Centers	$981 million	$981 million
Rural Education Achievement Program	$168.9 million	$168.9 million
IDEA State Grants	$10.6 billion	$10.7 billion
English Language Acquisition State Grants	$ 669 million	$ 669 million
Safe and Drug-Free Schools State Grants	$346.5 million	$0
State Grants for Innovative Programs	$99 million	$99 million

In addition, Indian students may participate in Federal discretionary programs, such as those under Safe and Drug-Free Schools and Communities National programs, that allow funds to be used for supplemental educational services.

Question: Many Johnson-O'Malley programs use the funds to provide schools supplies for needy Indian children. How much of the funding provided to the Department of Education supplemental programs are currently available and used for these types of needs?

Answer: Department of Education grant recipients may generally use program funds to pay for supplies so long as those supplies are necessary and reasonable for proper and efficient performance and administration of the program.

While the Department does not routinely collect data on the amount of funds grant recipients use for supplies, the August 2000 Final Report on the Study of Education Resources and Funding (a Department report) found that approximately 7 percent of ESEA Title I funds were used to pay for instructional materials.

Elimination of ED Programs

Question: How much of the Fiscal Year 2006 funding from the 42 education programs proposed for elimination—including Even Start, Gifted and Talented, Safe and Drug Free Schools, and other programs from which Indian students, both on and off-reservation, benefit—was devoted to Bureau-funded schools and for schools with high Indian populations?

Answer: Under the 2007 budget, funding that goes directly to support tribal and BIA schools would decrease by about $5.8 million (0.57 percent) for existing Elementary and Secondary Education Act formula programs. A majority of the programs proposed for elimination are discretionary programs that make competitive awards to a range of eligible applicants, which, for some programs, may include BIA schools or public schools with Indian children. The level of services carried out in BIA or other heavily Indian schools under these grants depends on the results of the competitions.

Question: Given the poor performance of Indian students and the dire conditions in which they try to learn, including high rates of drug and alcohol use on reservations, what is the rationale for eliminating this funding for Bureau-funded schools and schools with high Indian populations?

Answer: As noted in the response to the previous question, the 42 programs for which the Administration is requesting no funding are generally *not* programs that target funds on BIA schools or other schools with high concentrations of Indian children. The amount of money that would be cut from those schools is small. Moreover, BIA schools and other schools serving Indians would have the opportunity to receive support from the new

initiatives included in the budget, including High School Reform, Math Now, and Adjunct Teachers.

Question: Given the current conditions faced by Indian children, how do you propose that the schools fund drug and alcohol prevention programs and provide the other services funded by these programs?

The 2007 budget request includes $197 million for Safe and Drug-Free Schools and Communities National Programs. Local educational agencies (LEAs) that enroll Indian children would be eligible to compete under Department of Education grant competitions for many of these funds to support their drug and violence prevention programs and related efforts. For example, the budget request includes $79 million for grants to LEAs for comprehensive, community-wide "Safe Schools/Healthy Students" drug and violence prevention projects; $52 million for LEAs for drug prevention or school safety programs informed by scientifically based research (or that will use such research to demonstrate their effectiveness); and $15 million for school-based drug testing programs for students. LEAs may also use their State Grants for Innovative Programs funds for drug and alcohol prevention and school safety efforts. The budget request includes $99 million for State Grants for Innovative Programs. LEAs have access to State and local funds available for these purposes as well.

Tribally Controlled Postsecondary Vocational-Technical Institutions

Question: How would the $7.4 million proposed for the grants in FY 2007 be allocated? Or, how were they allocated in FY 2006?

Answer: The Department will determine United Tribes Technical College's (UTTC) share of the proposed $7.4 million based on the formula specified in the authorizing statute. Allocations for the program are based on the school's Indian student count (in full-time equivalents) for the current school year and the per capita student amount the school received the previous year; this amount is also adjusted for inflation. UTTC's share of FY 2005 funds was approximately $4,375,000.

Office of Indian Education

Question: When can we expect a permanent Director of the Office of Indian Education?

Answer: We are currently soliciting applications for the position, and expect to select a permanent Director by the end of this summer.

STATEMENT OF GARY L. EDWARDS
CHIEF EXECUTIVE OFFICER
NATIONAL NATIVE AMERICAN LAW ENFORCMENT ASSOCIATION ("NNALEA")

BEFORE THE SENATE COMMITTEE ON INDIAN AFFAIRS,

REGARDING THE 2007 FEDERAL BUDGET PROPOSAL FOR INDIAN PROGRAMS

February 14, 2006

Introduction

Mr. Chairman, Mr. Vice-Chairman and distinguished members of the Committee, my name is Gary Edwards and I am the Chief Executive Officer of the National Native American Law Enforcement Association (NNALEA). I am honored and pleased to appear before the Senate Committee on Indian Affairs, regarding the President's Fiscal Year 2007 Budget Request for Indian Programs. Thank you for this opportunity to address you today.

Background on NNALEA

As many of you may be aware, NNALEA is a not-for-profit public service organization founded in 1993, which among other things, provides a forum for the exchange of ideas and new technologies, and establishes networks for training, collaboration, technical assistance, information sharing and investigative assistance between federal, tribal, state and local entities and between all levels of government and the private sector. NNALEA has conducted National Training Conferences across the United States, and has recently completed its thirteenth (13) such Conference from November 15-17, 2005 in Las Vegas, Nevada. Homeland Security, Tribal law enforcement and Tribal community safety and security were issues of significant concern raised at this most recent Conference.

Presidents Fiscal Year 2007 Budget Request for Indian Programs

In evaluating the President's Fiscal Year 2007 Budget Request for Indian Programs, the following maxim espoused by President Abraham Lincoln is worthy of consideration: "*I walk slowly, but I never walk backward.*"

Historically, American Indians have been made to "walk slowly" in their pursuit of equality in public safety, health care, detention, education, and so forth. With each step, and as suggested by the wisdom of President Lincoln, progress has been achieved, although much progress is still needed. NNALEA is concerned that the President's Fiscal Year 2007 Budget Request for Indian Programs, if approved in its current form, may result in a regression of progress with regard to American Indian public safety, health, education, self-government, and self-determination.

During the remainder of my testimony on behalf of NNALEA, I will primarily focus upon our concern that the President's Fiscal Year 2007 Budget Request for Indian Programs may result in a regression of progress with regard to American Indian public safety, and I will defer to my fellow panelists with regard to American Indian health, education, self-government, and self

determination. More particularly, I will discuss the President's Fiscal Year 2007 Budget Request for Indian Programs as it relates to the following facets of Indian Country Public Safety which are not adequately addressed in the proposed budget. The most pressing Indian Country Public Safety concerns are:

I. The Loss of COPS Grants - A Crisis

Indian reservations and trust lands are and have been suffering from a public safety crisis. Homicides, juvenile crimes, gang activities, child abuse, drug and substance abuse, and a myriad of other criminal activities occur at staggering rates and plague public safety on the over fifty (50) million acres of land that comprise the Indian reservations and trust lands. According to recent statistics, violent crimes committed against American Indians are more than twice the national average.

The funding that has been provided to tribal law enforcement and first responders to combat this public safety crisis lags behind that provided for non-tribal law enforcement. For example, statistics suggest that the officer-to-resident ratio for non-tribal law enforcement is in the range of 3.9 to 6.6 officers per 1,000 residents, while the officer-to-resident ratio for tribal law enforcement is less than 2 officers per 1,000 residents. This discrepancy is even more troublesome given the fact that oftentimes the territory for which a given tribal law enforcement officer is responsible far exceeds the territory for which a given non-tribal law enforcement officer is responsible. This causes a quicker depletion of law enforcement resources (i.e., law enforcement response vehicles), lengthened response times, and greater risk to the safety of the responding law enforcement officer, thereby resulting in less effective law enforcement service and protection.

Previously, the Community Oriented Policing Services (COPS) has provided direct funding to tribes, through grants, which have provided Indian Communities with funding to hire new tribal law enforcement officers. Since 1999, COPS grants have helped Indian Communities create approximately 1,800 new tribal law enforcement officers. Unfortunately, of these 1,800 new tribal law enforcement officers, the funding for approximately 759 of those officers will have expired by the end of 2006. This is a devastating reduction to the already limited number of tribal law enforcement officers. In addition, each officer lost equates to a three year financial loss of approximately $100,000.00 to the United Stated government -- said amount being the amount invested by the government for the officer's placement, equipment, training and technical assistance over a three (3) year period.

By way of example, the Pine Ridge Indian Reservation has 86 sworn tribal law enforcement officers to serve and protect its 41,000 residents and 2.1 million acres of land. As such, Pine Ridge Indian Reservation has an approximate officer-to-resident ratio of 2 officers per 1000 residents, with an approximate officer-to-land ratio of 1 officer per 24,400 acres of land. With the loss of the COPS grants, the Pine Ridge Indian Reservation will lose its funding for 59 of its 86 sworn tribal law enforcement officers. This will change the Pine Ridge Indian Reservation's approximate officer-to-resident ratio to less than 1 officer per 1000 residents, with an approximate officer-to-land ratio of 1 officer per 77,700 acres of land. In addition, the United States government will lose the approximate $5.9 million it has invested in the officers' placement, equipment, training and technical assistance over the preceding three (3) years. This

does not take into account that the Pine Ridge Law Enforcement Officers will most likely have to self relocate their families to another community to pursue their law enforcement career.

Needless to say, at a minimum, the Fiscal Year 2007 Budget for Indian Programs needs to provide sufficient funding to enable Indian communities, such as the Pine Ridge Indian Reservation, to maintain the law enforcement officers, whose positions are being lost in light of the sun setting of the COPS grants which provided funding for those positions. Although, commendably the President's Fiscal Year 2007 Budget Request for Indian Programs increases the Bureau of Indian Affairs budget for law enforcement activities by $4.5 million, said amount is not enough to even maintain the current law enforcement activities in Indian Country. For instance, even if the $4.5 million was used solely to fund tribal law enforcement officers, it would not be enough to maintain the 759 law enforcement officers being lost by the end of 2006 because of the sun setting of the COPS grants which previously provided funding for those positions. Thus, unfortunately, the President's Fiscal Year 2007 Budget Request for Indian Programs, if approved in its current form, will make Indian Communities lose much of the progress that has been made over the past eight years with regard to public safety as it relates to law enforcement officers and resources. There needs to be a line item in the 2007 Budget that provides and additional $15 million either to the Department of Justice (DOJ) C.O.P.S. office or the Department of Interior (DOI) Bureau of Indian Affairs, Office of Law Enforcement Services (BIA-OLES) for the sustaining of the Tribal Law Enforcement Officer positions lost after the C.O.P.S. grants expired. Also, 2006 federal funds must be quickly designated to stop those Tribal Law Enforcement personnel losses in Indian Country before crises seizes the Indian Communities most at risk A new formula with a quality of life index needs to be developed for calculating Indian Country Public Safety staffing levels which sets a base line for minimum Tribal Law Enforcement staffing levels for each Tribal community.

II. The Rise of Methamphetamine Abuse & Violent Crime in Indian Country

Indian communities continue to be devastated by illegal drugs and alcohol abuse. Statistics suggest that 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.

As with many non-tribal communities, tribal law enforcement officials have noted that the growing trend of drug abuse in Indian communities is connected to methamphetamine. These officials further note a direct relationship between methamphetamine distribution and violent crime, particularly sexual assault, homicide, burglary, armed robbery, child abuse, and assault to law enforcement officers. The Drug Enforcement Administration, who presented at NNALEA's most recent annual forum, indicated that methamphetamine has risen to become one of the most dangerous drug problems affecting Indian communities. An example of the risk to Tribal communities is clear in the press release cited below:

Office of the United States Attorney, District of Arizona – Press Release – August 30, 2005
"While methamphetamine use and distribution is not unique to Indian country, the use of methamphetamine within the Indian communities of Arizona has had a profound effect," stated United States Attorney Paul K. Charlton. "A large percentage of the violent crimes prosecuted

by the U.S. Attorney's Office involve individuals under the influence of methamphetamine or other illegal substances. It is our sincere hope and belief that reducing the availability of methamphetamine within these communities will also bring a reduction in the number of violent crimes. It is a fight that we simply cannot afford to lose."

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.

Add to these monumental Public Safety challenges a major reduction in law enforcement personnel and a loss of resources and technical assistance and you have a crisis at hand for many Tribal communities.

Commendably, the President's Fiscal Year 2007 Budget Request for the Department of Health and Human Services (HHS) includes $25 million in funding for a methamphetamine initiative. However, said Budget Request does not appear to specifically earmark any of this funding for use by Indian communities. As such, NNALEA is concerned that the President's Fiscal Year 2007 Budget Request, if approved in its current form, does not go far enough in addressing Tribal public safety concerns relating to combating methamphetamine abuse, as it does not ensure that Indian communities will receive any of the funding. This on top of an HHS 2007 budget cut of $33 million that eliminates the Indian Health Service's Urban Indian Health Program. It seems logical that a portion of the above cited HHS 2007 budget funds should be directed specifically to Tribal Communities.

III. Detention in Indian Country

In the 1997 report "Indian Country Law Enforcement Improvements" the Executive Committee made the following comments. Detention needs in Indian Country involve funding for (1) operations, including staff, equipment, and supplies; (2) facilities, including maintenance, renovation, and new construction; (3) inspection and oversight; and (4) training and technical assistance. Most of the 70 jails in Indian Country are old, unsafe, and do not meet basic code requirements. At the same time, demand, especially for juvenile bed space, is rising. Initial costs for construction and renovation can be phased in over several years. The average, expected life of a jail is about 30 years, and most Indian Country jails were built in the 1960s and early 1970s.

Once complete, however, about 80 percent of the budget should be for staffing. Funds are needed for augmenting current staffing and upgrading staff capabilities through training and technical assistance.

While the above report is several years old, the report of the Department of Interior (DOI) Inspector General "Neither Safe, Nor Secure" verified the deplorable condition of many of the detention facilities and practices in Indian Country. The Presidents 2007 Proposed Budget offsets $8.6 million in DOJ "Indian Country Prison Grants" while DOI commits $8.1 million for four major facilities "Improvement and Repair" projects and several smaller projects to bring Indian detention centers up to national standards. Currently, a least four Indian Country detention facilities have been closed with a possible closing of a fifth soon. With four detention projects to be opened and five closed, it would appear that the $8.6 million for DOJ "Indian Country Prison Grants" should be restored if progress in Indian Country detention is to be made. Not forgetting to mention the additional funds needed, as indicated above for staffing and training.

IV. Tribal Homeland Security

The foundation for Homeland Security is quality community law enforcement and efficient, effective and timely emergency services in a time of crises. The four major elements necessary for these basic foundational Homeland Security capabilities are: (1) have a functional operational emergency plan in place that is compliant and compatible with Federal Tribal, State and local Homeland Security plans (2) possess the human, cyber and physical resources necessary to carry out the mission of law enforcement and emergency services professionals during time of a crises according to their respective emergency plan; (3) possess interoperable communications; and (4) possess the capability to share intelligence and information up and down the national intelligence networks.

Some Tribes may possess a few of these basic four Homeland Security foundational capabilities and a very few may possess them all. Most Tribal communities do not. Funding is necessary to begin the initial planning process and for that matter throughout the entire Homeland Security preparedness, response and recovery processes. NNALEA advocates direct funding to Tribes from all Federal Departments. The Department of Homeland Security (DHS) currently provides Homeland security funding to Tribes through States. There are some notable examples of States and Tribes working together to utilize Homeland Security dollars to build Tribal communities and contiguous local communities Homeland Security preparedness even across multi-State lines. For the President's Fiscal Year 2007 Budget Request for Indian Programs to embrace these progressive Tribal, State and local Homeland Security Preparedness Collaborations, $250,000 of the DHS competitive grant funds should be set aside for every State with a Tribe or Indian Nation within their designated boundaries. The DHS funds would be utilized as planning grants to encourage the bottom-up collaboration of Tribal, State and local initiatives focusing on the inclusion of the Indian Communities in the National Homeland Security Strategy.

V. Conclusion.

In conclusion, a public safety crisis exists in Indian communities with regard to the loss of law enforcement officers and resources in Indian Country, the rise of methamphetamine abuse and violent crime in Indian Country, the timeliness of Tribal detention improvements and Tribal inclusion in Homeland Security funding initiatives. Although NNALEA understands that difficult budget choices must be made with regard to the Fiscal Year 2007 budget, NNALEA respectfully requests that Native Americans not be made to "walk backward" with regard to public safety.

In the words of the great Sioux Chief, Sitting Bull, "...let us put our minds together and see what kind of a future we can build for our children." I am happy to answer any questions you may have.

Respectfully Submitted,

Gary L. Edwards
Chief Executive Officer
National Native American Law Enforcement Association

NATIONAL CONGRESS OF AMERICAN INDIANS

NCAI TESTIMONY ON THE ADMINISTRATION'S FISCAL YEAR 2007 BUDGET REQUEST FOR INDIAN PROGRAMS

Senate Committee on Indian Affairs
February 14, 2006

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On behalf of the more than 275 member tribal nations of the National Congress of American Indians, we are pleased to present testimony on the Administration's Fiscal Year 2007 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.

Last week, President Bush set forth his moral choices for the country in his $2.77 trillion budget proposal, which included level funding and numerous decreases for Indian programs, continuing the trend of consistent declines in federal per capita spending for Indians compared to expenditures for the population at large. As Congress shapes this budget, NCAI urges you to integrate the values of Indian Country, namely, the promotion of strong Indian families in a safe, secure, and self-reliant Native America. Tribes in the United States have sustained vibrant communities for millennia, with time-tested traditions and values reinforcing strong kinship systems, sound tribal governance, and good stewardship. These values are best expressed in the accomplishments of the policy of Indian self-determination, the most successful Indian policy in the history of the Union. We are disappointed that this year's budget request reduces effective funding for tribal priorities, with proposed reductions for vital programs that address health, education, public safety and justice, tribal self-government and self-determination.

Tribal governments, just like state and municipal governments, provide critical services, shape values, and promote jobs and growth. Though federal spending for Indians has lost ground compared to spending for the U.S. population at large, tribal self-government has proven that the federal investment in tribes pays off. According to a report by the Harvard Project on American Indian Economic Development, reservation communities have made remarkable socio-economic gains in the last decade driven by the policy of tribal self-government. Between 1990 and 2000, income levels rose by 33% and the poverty rate dropped by 7%, with little difference between those tribes with gaming operations and those tribes without gaming.

Tribes, however, still have considerable odds to overcome: real per capita income of Indians living on reservations is still less than half of the national average. Indian unemployment is still double the rest of the country. Educationally, only 13% of American Indians hold bachelors or graduate degrees, less than half the national average. The success of Indian Country in addressing these long enduring socio-economic disparities warrant continued federal investment in tribal self-determination.

The Administration's proposed budget does not reflect the priorities of Indian Country as laid forth by the BIA/Tribal Budget Advisory Council, as well as by tribal leaders in budget consultations with IHS and other agencies. NCAI urges Congress to honor its commitments to Indian Nations and provide tribes with the necessary tools for continued progress through the promise of strong tribal self-government. We ask that these recommendations be taken more closely to heart as the FY07 budget advances.

This testimony outlines some priorities tribal leaders have set for meaningful federal investment in Indian Country: public safety and justice; health-care; education; and tribal self-governance and self-determination programs.

In addition to addressing the troubling general trend of decreased federal fulfillment of trust obligations to tribes, we want to highlight the following key concerns in the proposed budget that we hope this Committee will work to address in FY 2007:

- Tribal leaders have consistently identified law enforcement, justice, and homeland security as key concerns in the FY 2007 budget. As the Department of Justice implements drastic programmatic changes, NCAI calls on Congress to ensure **law enforcement activities in Indian Country** are supported through sufficient funding, essential for the full realization of successful tribal governing. Member tribes of NCAI as well as representatives of the national BIA/Tribal Budget Advisory Council have made law enforcement, justice, and tribal courts as top priorities in 2006.

- **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 Tribal Priority Allocations, inadequate 638 pay cost increases, insufficient contract support funding, and under-funded Administrative Cost Grants. NCAI does, however, applaud the requested increase for Bureau of Indian Affairs indirect contract support costs for FY 2007. Failing to fully reimburse contract support costs in the Indian Health Service effectively penalizes tribes for exercising their self-determination rights, forces cuts to tribal programs in order to cover the shortfall, and leads to partial termination of the federal government's trust responsibility. As a matter of federal contracting principle, tribal contractors, like all other government contractors, should be promptly paid in full.

- NCAI opposes the zeroing out of the Urban Indian Health Program and, instead, believes that this program should receive a substantial funding increase. The Urban Indian Health Program provides a critical link in the Indian health care chain that cannot afford to be broken and cannot be replaced by other health services that many urban Indians, for cultural reasons, are reluctant to utilize. The organizations funded through the Urban Indian Health Program save money by taking a significant patient load off of the reservation-based programs. If these urban Indian organizations are effectively eliminated, many urban Indians will use the IHS reservation facilities at greater expense to the IHS health care system.

This testimony will assess the President's proposed FY 2007 budget for Indian programs by key areas of concern, starting with public safety and justice. Certain issues cross departments and NCAI's testimony will address these by topic rather than agency, such as with public safety and education.

PUBLIC SAFETY AND JUSTICE

A primary role of tribal government is to ensure the security and safety of Indian communities and families, tribal lands and resources, and the United States through law enforcement, detention, and strong judicial systems. Tribal governments serve as the primary instrument of law enforcement for the more than fifty million acres of land that comprise Indian country. The methamphetamine crisis in Indian Country and throughout the country highlights the role tribes play as a critical link in the strength and security of the entire United States.

In July 2005, Jesus Sagaste-Cruz was convicted of distribution of methamphetamine and conspiracy and sentenced to life in prison, a drug trafficker who had executed a business plan targeting Indian reservations in the West for meth distribution. Authorities in the investigation said, "Sagaste-Cruz designed his drug trafficking operation to exploit jurisdictional loop holes. Sagaste-Cruz erroneously thought that he could operate with impunity on Indian Reservations." The implications of one drug trafficking ring rippled out through numerous communities, tribal and non-tribal, not only just deeply affecting addicts, but also harming their children, families, jobs, community health, economies, infrastructure, and environment. Meth is one of the fastest growing drugs of abuse across the nation, with higher rates in rural America. The far-reaching effects of meth on communities require a coordinated approach with adequate resources. Key to the successful investigation and prosecution of the Sagaste-Cruz operation was a cooperative effort between federal, state and local enforcement. Tribes play a central role in protecting their citizens and creating communities safe from threats such as meth.

Law Enforcement
Current funding for tribal law enforcement and first responders lags well behind that for non-tribal law enforcement. 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. More than 200 police departments, ranging from small departments with only two officers to those with more than 200 officers, help to maintain public safety in Indian Country. According to a Justice Department study, the typical Indian Country police department has no more than three and as few as one officer patrolling an area the size of Delaware. According to the Bureau of Justice Statistics 2004 report, violent crime committed against American Indians is more than twice the national average and more likely committed by a perpetrator of a different race.

The Community Oriented Policing Services grants program has proven to be an excellent method for successful law enforcement in Indian Country, which provides direct funding to tribes on a government-to-government basis. COPS grants have helped Native communities hire 1,800 new police officers since 1999. But a total of 759 law enforcement positions will have expired between 2004 and 2006. The long-term benefits of the program are dependent on permanent funding to sustain these positions.

Tribal Courts
Tribal judicial systems are the primary and most appropriate institutions for maintaining order in tribal communities. Congress recognized this need when it enacted the Indian Tribal Justice Act, specifically finding that "tribal justice systems are an essential part of tribal governments and serve as important forums for ensuring public health and safety and the political integrity of tribal governments" and "tribal justice systems are inadequately funded, and the lack of adequate funding impairs their operation." Congress re-affirmed this commitment in reauthorizing the Act in 2000 for 7 years. While the Indian Tribal Justice Act promised $58.4 million per year in additional funding for tribal court systems starting in FY 1994, tribal courts have yet to see any funding under this Act. Many courts can only afford to have a judge hear cases once a month, which inhibits tribal members from receiving due process and seeing justice served in a timely manner.

Detention Facilities
In September 2004, the U.S. Department of Interior Inspector General's Office issued a report, "'Neither Safe Nor Secure': An Assessment of Indian Detention Facilities," which outlined the

deplorable and life-threatening conditions of Indian jails. The report noted that: 79% of facilities fall below minimum staffing levels on a regular basis; poorly maintained facilities that provide ample opportunity for escape; unusually high rates of suicide, a trend that generally correlates with reduced staff supervision and the influence of drugs and alcohol; and jails dilapidated to the point of condemnation.

Funding Recommendations
NCAI commends the Administration's proposed increase of $4.5 million for law enforcement activities in the Bureau of Indian Affairs, but opposes the proposed $5.3 million reduction to tribal courts. In the Department of Justice, the President proposes to transfer all programs funded within the State and Local Law Enforcement Assistance account to the Justice Assistance account, which would affect the separate allocations for the Tribal Courts, Tribal Prison Construction, and Alcohol and Substance Abuse Programs, which were funded at a total of $22 million in FY 2006. Tribal COPS funding would increase from $15 million to $31 million. In light of the apparent consolidation of funds in the Department of Justice for tribal programs, NCAI urges Congress to ensure that tribal governments are still able to take control of law enforcement locally to improve responsiveness, strengthen accountability, and tailor services to meet community needs.

Through significant, but incremental increases over several years, Indian Country public safety programs can reach adequate funding levels to make a very positive difference for Native communities. NCAI supports sustained 8-10% annual increases in the Interior Department and Justice Department Indian Country Public Safety Programs for FY 2007 through FY 2009. NCAI supports a special funding initiative to build the next 15 Indian Country detention facilities. To address the DOJ-documented crisis in Indian Country detention facilities, at least 15 new facilities, including both tribal and BIA facilities, need to be funded over the next three years (approximate cost: $150 million).

INDIAN HEALTH

Poor health continues to inhibit the economic, educational and social development of all of Indian Country. A vast range of public health indicators show that American Indians continue to suffer disproportionately from a variety of illnesses and diseases. Indians have a shorter life expectancy and have higher rates of disease than the general population. They suffer significantly higher rates of diabetes, mental health disorders, cardiovascular disease, pneumonia, influenza, and injuries. The Indian Health Service is charged with the primary responsibility for eliminating these disparities. The FY 2007 budget request for IHS is $4.0 billion, a net increase of $124 million over FY 2006. One of the most notable proposed changes to IHS is the zeroing out of the Urban Indian Health Program. Following are NCAI's key recommendations for Indian health programs.

Fund the Urban Indian Health Program
President Bush has proposed the elimination of the Urban Indian Health Program within the Indian Health Service. Urban Indian health programs report that such a cut would result in bankruptcies, lease defaults, elimination of services to tens of thousands of Indians who may not seek care elsewhere, an increase in the health care disparity for American Indians and Alaska Natives and the near annihilation of a body of medical and cultural knowledge addressing the unique cultural and medical needs of the urban Indian population held almost exclusively by these programs. Urban Indian health programs provide unique and non-duplicable assistance to urban Indians who face extraordinary barriers to accessing mainstream health care. What Urban Indian health programs offer cannot be effectively replaced by the HRSA's Health Centers program which, even according the President's FY 2007 budget

could only address the needs of an additional 25,000 Native Americans, at a loss of the nearly 150,000 Native Americans served by Urban Indian health programs. Notably, the Urban Indian Health Program receives only 1% of IHS funding, stretching those dollars to achieve extraordinary results.

Urban Indian Health Programs overcome cultural barriers. Many Native Americans are reluctant to go to health care providers who are unfamiliar with and insensitive to Native cultures. Urban Indian programs not only enjoy the confidence of their clients, but also play a vital role in educating other health care providers in the community to the unique needs and cultural conditions of the urban Indian population. Urban Indian Health Programs save costs and improve medical care by getting urban Indians to seek medical attention earlier. A delay in seeking treatment can easily result in a disease or condition reaching an advanced stage where treatment is more costly and the probability of survival or correction is lower. The Urban Indian programs are often able to diagnose more quickly and more accurately the needs of the Indian patient, as well as more readily point a patient to the appropriate medical resource to address his or her condition. Urban Indian Programs reduce costs to other parts of the Indian Health Service system by reducing their patient load. Many urban Indians, if they cannot seek medical advice at an Urban Indian program, return to their reservation to access far costlier services.

Congress enshrined its commitment to urban Indians in the Indian Health Care Improvement Act where it provided: "that it is the policy of this Nation, in fulfillment of its special responsibility and legal obligation to the *American Indian people*, to meet the national goal of providing the highest possible health status to Indians *and urban Indians* and to provide all resources necessary to effect that policy."25 U.S.C. Section 1602(a) (emphasis added).

Rather than the President's proposal, NCAI urges Congress to support a $12 million increase for Urban Indian programs in the FY 2007 budget.

Increase IHS Funding by $485 Million to Maintain Existing Services
American Indians and Alaska Natives receive life or limb service under current conditions, meaning funds are only available to treat the most life threatening illnesses leaving other serious health needs unaddressed. A $485 million increase to IHS is necessary in FY 2007 just to maintain existing health services and restore loss of buying power.

The National Congress of American Indians urges Congress to support the health of tribal families and communities by increasing the IHS budget by $485 million in FY 2007.

Exempt the IHS Budget from Across-the-Board Rescissions
Across-the-board rescissions have increasingly affected Indian health programs over the last 5 years. IHS programs are acutely sensitive to these rescissions, which result in reduced services to Native people.

In FY2006, the IHS was subjected to two rescissions: one .476% reduction in the FY06 Interior Appropriations bill and a 1% rescission in the Defense Appropriations bill. Veterans Administration medical programs were exempt from the 1% cut, however. In FY2006, rescissions will take nearly half of the approved increase for IHS. IHS programs are subject to the same rates of medical inflation as the Veterans Administration programs are and thus should be given the same consideration.

The National Congress of American Indians urges Congress to refrain from imposing future across-the-board rescissions on the Indian Health Service budget that only result in widening the health disparities gap for American Indian people.

Increase Contract Health Services Funding By $70 Million
$70 million increase is needed for Contract health funding. This level will allow those tribes who are not served by an IHS Hospital to provide health care services at the same level as those tribes who are served by an IHS Hospital.

Tribes and tribal members who are not located in an area served by an IHS Hospital are not able to access the same level of health care as those who are served by a combination of community based and hospital services. These Tribes and Tribal members experience a greater disparity of health care services than other poorly served populations.

In addition to hurting Native American patients, the lack of IHS funding has a severe impact on the broader Indian community, including the budgets of Tribal facilities and providers throughout the nation. Indians routinely are referred to many Tribal and non-tribal hospitals with the understanding that the Tribes will pay for the services.

$90 Million for Contract Support Costs
Contract support costs 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. On March 1, 2005, the U.S. Supreme Court issued a unanimous decision in *Cherokee Nation and Shoshone – Paiute Tribes v. Leavitt* law suit which powerfully reaffirmed the enforceability of government contracts between tribes and agencies such as BIA and IHS.

Failing to fully reimburse contract support costs effectively penalizes tribes for exercising their self-determination rights, forces cuts to tribal programs in order to cover the shortfall, and leads to partial termination of the federal government's trust responsibility. As a matter of federal contracting principle, tribal contractors, like all other government contractors, should be promptly paid in full.

The National Congress of American Indians requests a $90 million increase for IHS contract support costs for 100% funding.

INDIAN EDUCATION

Effective and culturally relevant educational systems are critical for nurturing strong, prosperous tribal youth and lay the foundation for healthy communities. Young people in Indian Country often must walk in two worlds. Tribal leaders and educators understand that culturally appropriate educations equip Indian youth to navigate successfully in both worlds. Indian Country has solutions for closing the educational achievement gap based in the values and lessons of our cultures, as evidenced by the success of language immersion programs.

We know from academic studies that Indian children flourish when their classroom experiences are built on our tradition, language and our culture. The No Child Left Behind Act allows for this kind of education, but the resources to actually make it possible have yet to be appropriated. The remedy, of course, is to fully fund this part of the No Child Left Behind Act. I am confident that this culture-centered approach will work because I have seen it work. In 1994, the Alaska Rural Systemic Initiative began connecting students with elders in the community and creating a passion for learning

by showing students how to explore science and history in light of their cultural heritage. It worked. Over a 10-year period, student performance went up. Test scores improved and drop-out rates declined. And this didn't require blue-ribbon panels or years of research. It helped as soon as it was begun: turning the unique position of the Indian Nations into an asset by making Indian children proud of where they come from.

A dangerous pattern has developed in recent years where Indian programs get smaller increases in years where overall funding is up and bigger cuts in years when overall funding is down. NCAI urges policy makers to reverse this trend and provide American Indian education the resources to fulfill the promise of the No Child Left Behind Act.

Restore the Johnson O'Malley Program
The President proposes to eliminate the Johnson O'Malley program (JOM) in the Bureau of Indian Affairs, a $16.4 million program. Enacted in 1934, the Johnson-O'Malley program was the first attempt by the Federal government to fund programs for the education of Indian students on an institutional basis. Through the 1960s, the JOM program funded both the basic costs associated with academic programs and additional, supplemental services for Indian children attending public schools. By the early 1970s, the Impact Aid program was paying for basic educational expenses, and the JOM program became a supplemental program for Indian students in public schools. Through this program, a range of academic remedial services, cultural programs and services were made available. In the 1970s, such programs become contractible by Indian tribes and nations, and today, all the funds are contracted through tribes, tribal organizations, or state departments of education. 93% of the Indian children are served through the public school system which the Johnson-O'Malley program is a part of

The rationale for this elimination is "due to the availability of other Federal funding and a lack of accountability for how the funding is used" (Department of Interior, FY 2007 Budget in Brief, p. 86). The Bureau hasn't collected information on JOM in a decade, since the deletion of JOM as a separate line item in the budget. The Johnson-O'Malley program has been in a state of "suspended animation" for the last 10 years. Tribes and other grantee/contractors under JOM have been frozen at the 1995 student count and funding figures since the inclusion in the TPA and under the Bureau's plans, this will continue indefinitely. Though it is in the TPA block grant, every tribe continues to conduct the program. Indian Country values JOM, evidenced by the fact that many tribes augment Federal monies for this program. Tribes are positioned to be held accountable for Johnson-O'Malley, which puts the program under the strict control of an Indian Education Committee. The Indian Education Committee is composed of parents of eligible students enrolled in the school district. Choices are made at the local level, with scarce resources going to locally determined needs.

<u>JOM is not duplicative of Department of Education programs.</u> The U.S. Department of Education oversees the Title VII Indian Education Act programs which the President considers 'a similar funding' source for Indian Education. The Title VII program is run directly through the school districts and is not subject to tribal control. The tribes have no actual authority over the design or implementation of the Title VII programs. Under the JOM regulations, the parents of eligible JOM students have 'fully vested authority' to design and implement their JOM programs. By regulation, (25 CFR, part 273.16-17) the JOM programs are based on community needs assessment and not the needs of the school district and serve a much broader range of needs and services. The JOM program is the only federally funded program that allows for student, parent and community involvement in meeting their educational needs which is both academic and culturally based. Also, the eligibility for

Title VII students is not based on students belonging to a federally recognized tribe – they just need to self-identify as Indians.

NCAI urges Congress to restore the funding for this critical Indian education program.

Invest in Native Languages
On tribal lands across the country, Native language classes, including highly effective immersion programs, are turning the tide against the crisis of Native language loss and the threat this loss poses to Native cultures. Immersion schools yield two dramatically positive results:
1) the schools successfully teach Native language fluency to the next generation of tribal communities, thus preserving the languages; and
2) the tribal students in immersion programs perform substantially better academically, including on national tests, than Native students who have not gone through such programs.

The Administration for Native Americans (ANA) administers a grant program in support of Native American languages, which in FY2004 provided $3.9 million in language grants to 33 native grantees, with only 10% of that funding immersion programs. NCAI recommends this program be substantially expanded specifically to support existing immersion schools and programs.

NCAI requests an increase of $6 million to the ANA for existing and start-up immersion programs over and above the $3.9 million currently allocated for Native language programs, for a total language budget of $9.9 million.

Support Tribal Education Departments
Sovereign tribal governments play a significant role in the education of Indian children. Over one hundred Indian tribes have started Tribal Education Departments (TED), which develop and administer policies; gather and report data, and perform or receive critical research and analyses to help tribal students from early childhood through higher and adult education in all kinds of schools and school systems. TEDs bridge tribal history and our future in preserving and cherishing traditional languages and cultures while cultivating rising tribal leaders and our workforce. TEDs serve thousands of tribal students nationwide, in BIA, tribal, and public schools. They work on reservations, in urban areas, and in rural areas and deal with early childhood, K-12, higher, and adult education.

As tribal governmental agencies, TEDs should be involved in the areas of education in which State Education Departments and Agencies are: setting meaningful education policies and regulations; collecting and analyzing education data; engaging in education planning; setting academic standards and developing student progress assessments; determining what students learn and how it is taught.

NCAI supports $5 million in appropriations in FY 2006 for Tribal Education Departments so they can assume the responsibilities that Congress envisions for them.

Indian Head Start
The President proposed level funding for Head Start in the Department of Health and Human Services. The Head Start/Early Head Start Programs are vital to Indian Country. Over the last 40 years, Head Start has played a major role in the education of Indian children and in the well-being of many tribal communities. However, only about 16% of the age eligible Indian child population is enrolled in Indian Head Start. Of the approximately 565 federally recognized tribes, only 222 have Head Start programs. Needless to say, for the 343 that do not, 0% of the eligible children are served

by Indian Head Start. The comprehensive nature of this program, integrating education, health and family services, is close to a traditional Indian educational model and has resulted in perhaps the single most successful Federal program operating in Indian Country.

Increase the Indian Head Start Set-Aside from approximately 2.8% to 4% of the Head Start Budget. Both the House of Representatives and the Senate have recognized that the current funding level is too low given the daunting challenges faced by Native youth. The House has passed legislation that would establish a set-aside of 3.5% for Indian Head Start (H.R. 2123). The Senate Health Education Labor and Pensions Committee has marked up legislation that would establish a set-aside of 4% for Indian Head Start (S. 1107). Increasing the Indian Head Start set-aside from 2.8% to 4% would have a tremendous positive impact on all aspects of Indian Head Start.

Tribal Colleges & Universities

Department of Interior, Tribally Controlled College or University Assistance Act

NCAI supports full funding for Title I of the Tribally Controlled College or University Assistance Act, which supports the basic operating budgets of 23 tribal colleges, over the next two fiscal years. NCAI also supports funding increases for the day-to-day operations of the other accredited AIHEC member institutions funded under separate authorities. Addressing chronic under-funding is essential to the sustained growth, the increasing number of TCUs, and the continued access of quality higher education opportunities for American Indians. *$52.9 million, an increase of $10.7 million is needed to fully fund the day-to-day operations of 23 tribal colleges at the authorized $6,000 per ISC. NCAI also supports $17.7 million for the Dine College for FY 2007.*

1994 Land Grant Institutions, Dep. of Agriculture

In 1994, AIHEC member institutions achieved Federal land grant status through the passage of the "Equity in Educational Land Grant Status Act". Over a decade later and Tribal Colleges & Universities (TCUs) have yet to be recognized and funded as full partners in the nation's land grant system, and so our potential remains unrealized. Funding at the requested levels is a small but critical first step in addressing disparities that currently exist in the land grant system.

PROGRAM NAME	AUTHORIZATION LEVELS	FY2005 ENACTED	FY2007 NCAI REQUEST
1994 Institutions' Endowment Fund 33 colleges share fund's annual interest yield	*"Such sums as needed"*	$12 million	$12 million
1994 Institutions' Equity Grant Program Non-competitive, requires plan-of-work	$100,000 per institution	$2.250 million	$3.3 million
1994 Institutions' Extension Program Competitive	*"Such sums as needed"*	$3.273 million	$5 million
1994 Institutions' Research Program Competitive - requires partnership w/ 1862 and/or 1890.	*"Such sums as needed"*	$1.087 million	$3 million
RCAP – tribal college facilities Competitive - requires non-Federal matching funds.	$10 million	$4.5 million	$5 million

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

A successful start in life depends on safe, quality and affordable housing, which helps to prevent and alleviate other physical and social problems from occurring, including lack of educational achievement and poor health. These types of problems make it difficult to obtain and maintain employment, creating further economic hardship for Indian families. The Native American Housing and Self-Determination Act allows tribes to be more creative and resourceful in creating homes for their members. NAHASDA revolutionized how Native American housing funds are provided by recognizing tribes' authority to make their own business decisions. Tribes have increased capacity to address the disturbing housing and infrastructure conditions in Indian Country through managing their own programs and leveraging NAHASDA dollars with tribal dollars.

Through NAHASDA, tribes are addressing the needs of their communities. In 1995, 20% of tribal residents lacked complete plumbing. This number was reduced to 11.7% by 2000, although it is still far higher than the 1.2% for the general population. In 2000, 14.7% of tribal homes were overcrowded, a drop from 32.5% in 1990. Despite improvements, severe conditions still remain in some tribal homes, with as many as 25 - 30 people living in houses with as few as three bedrooms. Native Americans are becoming homeowners at an increasing rate, 39% more from 1997 to 2001. Fannie Mae's investment in mortgages increased exponentially, from $30 million in 1997 to more than $640 million in the most recent 5 year period.

Although tribes have the desire and potential to make headway in alleviating the dire housing and infrastructure needs of their communities, tribes' housing needs remain disproportionately high and disproportionately under-funded. Tribal housing entities, due to funding levels and population growth, are only able to maintain the status quo.

Disproportionate need in Indian Country remains. Roughly 16% are without telephones, compared to 6% of non-Native households. Approximately 40% of Indian housing is considered inadequate, compared to roughly 6% nation-wide. Less than half of homes on reservations are connected to a public sewer system.

Fund the Native American Housing Block Grant (NAHBG) at $748 Million
The President proposed a slight increase for the Native American Housing Block Grant over FY 2006 with a level of $626 million. The NAHBG provides needed funds to tribes and tribally designated housing entities (TDHE) for: housing development; construction; infrastructure; and, repair. Tribes and TDHEs that have used the Title VI loan guarantee program, where "the borrower leverages NAHBG funds to finance affordable housing activities today by pledging future grant funds as security for repayment of the guarantee obligation," could be in jeopardy of non-payment if the NAHBG is reduced. Any defaults under Title VI would obligate HUD, as the guarantor at 95%, to repay the loan.

NCAI recommends that the NAHGB be funded at least at the FY2005 level with adjustment for inflation, which, for FY2007, would be $748 million.

Fund the Indian Community Development Block Grant (ICDBG) at $77 Million
The President proposed a slight decrease for the ICDBG with a level of $57 million. ICDBG funds are dedicated for infrastructure, economic development, and housing. Infrastructure improvement includes roads, water and sewer facilities, and community buildings. Economic development includes a variety of commercial, industrial, and agriculture projects. ICDBG was funded for FY2006 at $59.4

million, an $8 million reduction from FY2005, which will eliminate jobs, housing, and economic development in Indian Country.

NCAI recommends that the Indian Community Block Grant be funded at $77 million for FY2007.

BUREAU OF INDIAN AFFAIRS/OFFICE OF SPECIAL TRUSTEE

The Bureau of Indian Affairs budget request is $2.22 billion, a level $52.4 million below the FY 2006 enacted amount. Many significant proposed changes to BIA have been addressed in the Public Safety and Indian Education sections of NCAI's testimony. However, NCAI would like to highlight some additional concerns in the President's FY 2007 budget request for BIA.

Contract Support Costs
NCAI commends the Administration's requested increase for Bureau of Indian Affairs indirect contract support costs for FY 2007. Failing to fully reimburse contract support costs effectively penalizes tribes for exercising their self-determination rights, forces cuts to tribal programs in order to cover the shortfall, and leads to partial termination of the federal government's trust responsibility. As a matter of federal contracting principle, tribal contractors, like all other government contractors, should be promptly paid in full.

Community Fire Protection
A decrease of $1.144 million is proposed to eliminate the community fire protection program. The justification for eliminating this program is "due to a lack of performance accountability, duplication of other Federal or State programs, and implementation of management efficiencies" (BH-83, Department of Interior, FY 2007 Budget in Brief). The problem with this justification is that many tribes operate fire protection services in remote areas where local fire departments can not or will not provide protection. If these programs are not restored, tribes will be left vulnerable and unprotected. Tribes moreover should not be punished due to inefficient data management and reporting, which prevents accurately assessing performance. Tribes operate programs at levels far more superior than most BIA programs operated through direct service by the BIA. Tribes are responsible in their record keeping and fulfillment of 638 contract reporting. *NCAI urges Congress to restore the funding for the community fire protection program in BIA.*

Human Services
The President proposes reducing Welfare Assistance by $11 million and Indian Child Welfare would be cut by $742 thousand, with justification that the programs duplicate federal or state programs. Many Tribes experience difficulty in getting their tribal members to the state offices due to their rural locations and many states turn away tribal members simply because due to lack of funding to cover additional recipients. The tribal leaders of the BIA/Tribal Budget Advisory Council have emphasized the importance of these two programs to their constituent members at home. NCAI urges Congress to restore these critical human services.

Indian Land Consolidation
The FY 2007 budget proposes funding of $59.5 million for Indian land consolidation, an increase of $25.4 million, or 75% above the FY 2006 enacted level. Tribal leaders continue to stress that Indian land consolidation is critical for addressing the problem of fractionation, which creates an accounting nightmare and enormous difficulties for owners in putting land to beneficial use. Land consolidation will improve federal administration and management, and saves substantial federal dollars that currently go to tracking tiny interests. *NCAI lauds the Administration's requested increase for land*

consolidation, but continues to urge an appropriation of $95 million for Indian land consolidation in FY 2007, the full amount authorized by Congress. This investment in land consolidation will do more to save on future trust administration costs than any other item in the trust budget.

Indian Forests and Forest Management
Tribes have followed many lessons in pursuit of sustaining strong traditional communities: proficient stewardship, balance in economic development and resource protection, and considering the impact of leadership decisions on the seventh generation to come. A striking example of tribes' success as stewards of the land is the management of Indian forests.

As outlined in the An Assessment of Indian Forests and Forest Management in the United States, December 2003 (IFMAT-2) report, the management of Indian forests is different and better than it was in 1993, with significant progress made toward sustainability in Indian forests although significant progress remains to be made. Indian forests have retained and enhanced their value (noted in IFMAT I) as areas for sustainable forestry to meet human needs. "Because tribal members live intimately with all the results of their forestry activities they pay close attention to the health of their forests and the effects of forest management activities on themselves and their environment. This makes Indian forests of special value to all Americans."

Many reservations innovatively manage their forests under the principles of adaptive ecosystem management, with increasing quality and quantity of tribal forest management staff. Indian forests are deeply interconnected with tribal life. Timber production, non-timber forest products, grazing, and wildlife management create revenue and jobs for tribal citizens and spur the economies of surrounding communities. Subsistence lifestyles and forest-derived foods and medicines are important to many tribal members. Indian forests often play a role in religious observance and artistic expression. Forest protection and use remain core values on forested reservations.

Success of Tribes:
On the White Mountain Apache Reservation, forest thinning and fuels reduction activities stopped the advance of the huge Rodeo-Chedeski forest fire. After the fire, the tribe and BIA quickly and successfully salvaged merchantable logs from the burned-over lands using helicopter logging, and the post-fire Burned Area Emergency Recovery activities on the Reservation drew national attention for their effectiveness.

Under the Forest Management Plan of the Self-Governed Hoopa Tribe in Northern California, the listed Northern Spotted Owl (NSO) population is stable and reproduction is increasing while the Tribe's timber harvest still provides the Tribe's economic base. NSO populations on unmanaged neighboring National Forests are declining.

Recommendation
The BIA FY 2007 budget for Forestry should be $172 million, an increase of $120 million over current budget levels. The current BIA Forestry budget of $51.9 million includes all direct Forestry funding from Tribal Priority Allocation, Non-Recurring Programs, Regional Office Operations, and Central Office Operations. It includes estimates for Forestry funds transferred over the years to Self-Governance, as well as historically-based estimates of Forestry spending in the Central Office Natural Resources General program. It does not include any fire funding.

ENVIRONMENTAL PROTECTION AGENCY

Tribal governments are faced with a very real need for economic development, as are many of their rural and urban neighbors. As tribal governments and the United States overall continue economic growth in a finite world, we have become increasingly aware of the services provided us by our environments. To protect tribal sovereignty, our health and well being, and our cultures, tribes need to attract federal and private investment in two high priority areas: natural infrastructure and man-made infrastructure.

Natural Infrastructure

Natural infrastructure has supported us for millennia. Natural systems which clean our water, air, and restore our land need support through both direct and preventative action. For example, the preservation and further creation of wetlands and wild lands is a key priority, as this protects critical habitats of species that inspire and teach us about our histories, beliefs and worldviews as traditional people. Furthermore, tribes need increased knowledge and investment in quantification and certification of carbon sequestration as a means to participate in protecting our lands from a changing climate.

Tribes need investment in preserving our living infrastructure to keep pollutants from reaching all branches of our natural communities. In these communities live our most vulnerable assets and we need a means to support and protect them.

Man-Made Infrastructure

As a civilization we have made great strides in developing science and engineering that provides us safer access to drinking water, disposal of waste water, design of solid/hazardous waste facilities, transportation and energy systems that support community and home designs that promote healthy families and lifestyles. As some tribes build-out to meet the needs of rapidly expanding populations and as our infrastructure ends the life span of its design, we are faced with the challenge and opportunity of redesigning some of our infrastructure to meet the needs of our families and cultures. Essential in this design is minimizing impacts on our natural infrastructure. Tribes need increased capacity building to effectively utilize existing environmental decision-making processes like NEPA. We applaud the effort in the Energy Policy Act calling for the creation of a National Tribal Environmental Review Resource Center, and recommend that the Center receive appropriate funding to fulfill its Congressional mandate.

Recommendations

Interagency Collaboration, Resources, and Authority

To accomplish these overarching goals, NCAI recommends greater federal interagency cooperation and collaboration. Some good examples we would like to encourage include the Interagency Solid Waste Taskforce; the Inter-Agency Tribal Drinking Water and Wastewater Workgroup; the White House CEQ's Modernizing NEPA Roundtables. NCAI would also like to encourage continuation of the work of the tribal governments and intertribal organizations working on these issues, and that the federal agencies continue to bring the tribes to the table on these efforts in fulfillment of their individual Indian policies and trust obligations.

NCAI supports and recommends that Congress meet the national tribal governments' environmental needs as identified below:

GOAL	Total FY2007 Budget
Goal 1: Clean Air & Global Climate Change	$29,200,000
Goal 2: Clean & Safe Water	$125,360,000
Goal 3: Land Preservation & Restoration	$80,114,300
Goal 4: Healthy Communities & Ecosystems	$32,133,200
Goal 5: Enforcement & Compliance Assurance	$75,400,000
Totals	$342,207,500

Data Management

A persistent problem affecting all areas of Indian Country is the lack of efficient and effective data management and reporting. Tribes and federal agencies badly need to improve capacity to identify existing needs and deficiencies and NCAI urges Congress and the President to invest in improved data management for programs affecting American Indians.

For instance, in the Department of Interior, Indian Affairs programs do not maintain collected data in a ready access fashion for instant analysis and reporting, resulting in weeks or months to compile a report on standard program practices. The Bureau's lack of data management also leads to duplicate data calls, missed deadlines, and incomplete reporting. It appears that all programs collect standard program data on a regular basis, but fail to maintain it. Each time a call comes in from the Department, the Congress, or OMB, it goes out as a brand new data call.

NCAI urges an increased investment in data management to more efficiently and effectively use program funding; improve justification for budget formulation, budget allocations, and fund distribution; enhance data credibility and analysis for use by decision makers in critical processes (including GPRA and PART).

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.

UNITED TRIBES TECHNICAL COLLEGE
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Statement on
FY 2007 Bureau of Indian Affairs Budget
FY 2007 Carl Perkins Budget (Department of Education)

Submitted to the
Senate Committee on Indian Affairs

Tex Hall, UTTC Board President and Chairman, Mandan, Hidatsa, Arikara Nation
David M. Gipp, President, United Tribes Technical College

February 14, 2006

For 37 years, United Tribes Technical College (UTTC) has been providing postsecondary vocational education, job training and family services to Indian students from throughout the nation. We are governed by the five tribes located wholly or in part in North Dakota. We have received funding through the Bureau of Indian Affairs (BIA) every year since our founding, and since 1976 under Public Law 93-638 (Indian Self Determination Act) contract authority.

The BIA proposal to eliminate funding for United Tribes Technical College makes no sense. The proposal is an affront to Indian youth and to Indian country generally. We are an educational institution that consistently has excellent results, placing Indian people in good jobs and reducing welfare rolls. The Bureau should be supporting us, not making proposals that would put us out of business. The elimination of BIA funding for UTTC would shut us down, as these funds constitute half of our operating budget. We do not have a tax base or state funds on which to rely.

The request of the United Tribes Technical College Board for the FY 2007 BIA budget is:

- ***$4.5 million in BIA funds for UTTC,*** which is $1.05 million over the FY 2006 level.

- ***$5 million in BIA funds for phase one of student housing construction***, a need identified in the 2000 Department of Education study. We are one of the few tribal colleges which offers a dormitory system, including family housing.

- ***Requirement that the BIA place more emphasis on funding and administrative support for job training and vocational/technical education.*** The Adult Vocational Training program, funded at $15 million in FY 2005 (TPA, Self-Governance and Consolidated Tribal Programs combined) is but a shadow of its former self. The FY 1970 appropriation for this program was $60 million. There is no BIA leadership or advocacy for job training or vocational/technical education at the central or regional office levels.

Our request for the FY 2007 for the Tribally Controlled Postsecondary Vocational and Technical Institutions Program (Section 117 of the Carl Perkins Act) is:

- **$8.5 million or $1.1 million above the Administration's request and the FY 2006 enacted level.** Funding under Section 117 of the Perkins Act is distributed to United Tribes Technical College and to Crownpoint Institute of Technology. In recent years it has been distributed on a formula basis.

UTTC Performance Indicators. UTTC has:

- An 87% retention rate
- A placement rate of 95% (job placement and going on to four-year institutions)
- A projected return on federal investment of 1 to 20 (2005 study comparing the projected earnings generated over a 28-year period of UTTC Associate of Applied Science and Bachelor degree graduates of June 2005 with the cost of educating them.)
- The highest level of accreditation. The North Central Association of Colleges and Schools has accredited UTTC again in 2001 for the longest period of time allowable – ten years or until 2011- and with no stipulations. We are also the only tribal college accredited to offer on-line associate degrees.

The demand for our services is growing and we are serving more students. For the 2005-2006 school year we enrolled 1113 students (an unduplicated count) a 20% increase over last school year. The majority of our students are from the Great Plains states, an area that, according to the 2003 BIA Labor Force Report, has an Indian reservation jobless rate of 76 percent. UTTC is proud that we have an annual placement rate of 95 percent. We hope to enroll 2000 adult students by 2008.

In addition, we have served 252 students during school year 2005-2006 in our Theodore Jamerson Elementary school, and 255 children in our infant-toddler and pre-school programs.

UTTC course offerings and partnerships with other educational institutions. We offer 15 vocational/technical programs and awards a total of 24 two-year degree and one-year certificates. We are accredited by the North Central Association of Colleges and Schools. Our course which has the highest number of students is *the Licensed Practical Nursing* program.

Medical Transcription and Coding Program. Our newest academic endeavor is our Medical Transcription and Coding Program which is offered through the college's Exact Med Training program.

Tribal Environmental Science. Our Tribal Environmental. Science program is being offered through a National Science Foundation Tribal College and Universities Program grant. The five-year project supports UTTC in planning and implementing an innovative environmental science program. The course work will lead to a two-year associate of applied science degree in Tribal Environmental Science.

Injury Prevention. Through our Injury Prevention Program we are addressing the injury death rate among Indians, which is 2.8 times that of the U.S. population We received assistance through Indian Health Service to offer the only degree-granting Injury Prevention program in the nation.

Injuries are the number one cause of mortality among Native people for ages 1-44 and the third for overall death rates.

Online Education. We are working to bridge the "digital divide" by providing web-based education and Interactive Video Network courses from our North Dakota campus to American Indians residing at other remote sites and as well as to students on our campus. This Spring semester 2006, we have 79 students registered in online courses, of which 39 students are studying exclusively online (approximately 22 FTE) and 40 are campus-based students. These online students come from nine different states: Colorado, Michigan, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, South Dakota and Wisconsin.

Typically campus-based students enroll in online courses because of scheduling conflicts or because they like the flexibility offered by online courses. All totaled, 159 online course seats are filled by students this semester. Thirty one courses are currently offered online, including those in the Medical Transcription and Coding program and those offered through the MOU with Owens Valley Career Development Center.

Our newest on-line course is suicidology – the study of suicide, its causes, and its prevention and of the behavior of those to threaten or attempt suicide -- and we expect that with additional outreach that there will be a significant demand for this course.

Online courses provide the scheduling flexibility students need, especially those students with young children. Our online education is currently provided in the areas of Early Childhood Education, Injury Prevention, Health Information Technology, Nutrition and Food Service and Elementary Education.

United Tribes Technical College is accredited by the Higher Learning Commission of the North Central Association of Colleges and Schools to provide associate degrees online. This approval is required in order for us to offer federal financial aid to students enrolled in these online courses. We are the only tribal college accredited to offer associate degrees online

Computer Information and Technology. The Computer Support Technician program is at maximum student capacity because of limitations on learning resources for computer instruction.. In order to keep up with student demand, we will need more classrooms, equipment and instructors. Our program includes all of the Microsoft Systems certifications that translate into higher income earning potential for graduates.

Nutrition and Food Services. UTTC will meet the challenge of fighting diabetes in Indian Country through education. Indians and Alaska Natives have a disproportionately high rate of type 2 diabetes, and have a diabetes mortality rate that is three times higher than the general U.S. population. The increase in diabetes among Indians and Alaska Natives is most prevalent among young adults aged 25-34, with a 135 percent increase from 1990-2003. Nearly 70 percent of Indians and Alaska Natives aged 35 years or older have both diabetes and hypertension (Source: FY 2007 Indian Health Service Budget Justification book).

As a 1994 Tribal Land Grant institution, we offer a Nutrition and Food Services Associate of Applied Science degree in an effort to increase the number of Indians with expertise in nutrition and dietetics. Currently, there are only a handful of Indian professionals in the country with training

in these areas. Among our offerings is a Nutrition and Food Services degree with a strong emphasis on diabetes education, traditional food preparation, and food safety.

We also established the United Tribes Diabetes Education Center to assist local tribal communities and our students and staff in decreasing the prevalence of diabetes by providing diabetes educational programs, materials and training. We published and made available tribal food guides to our on-campus community and to tribes.

Business Management/Tribal Management. Another of our newer programs is business and tribal management designed to help tribal leaders be more effective administrators. We continue to refine our curricula for this program.

Business Management: Tourism and Hospitality Management. A recently established program is tourism and hospitality management. We developed the core curricula for the tourism program and are partnering with three other tribal colleges (Sitting Bull, Fort Berthold, and Turtle Mountain) in this offering. The development of the tribal tourism program was timed to coincide with the planned activities of the national Lewis and Clark Bicentennial.

Job Training and Economic Development. UTTC is a designated Minority Business Development Center serving Montana, South Dakota and North Dakota. We also administer a Workforce Investment Act program and an internship program with private employers.

Economic Development Administration funding was made available to open a "University Center." The Center is used to help create economic development opportunities in tribal communities. While most states have such centers, this center is the first-ever tribal center.

Upcoming Endeavors. We are seeking to develop a Memorandum of Understanding with the BIA's Police Academy in New Mexico that would allow our criminal justice program to be recognized for the purpose of *BIA and Tribal police certification*, so that Tribal members from the BIA regions in the Northern Plains, Northwest, Rocky Mountain, and Midwest areas would not have to travel so far from their families to receive training. Our criminal justice program is accredited and recognized as meeting the requirements of most police departments in our region.

We are also interested in developing training programs that would assist the BIA in the area of provision of *trust services*. We have several technology disciplines and instructors that are capable of providing those kinds of services with minimum of additional training.

Department of Education Study Documents our Facility/Housing Needs The 1998 Vocational Education and Applied Technology Act required the Department of Education to study the facilities, housing and training needs of our institution. That report was published in November 2000 ("Assessment of Training and Housing Needs within Tribally Controlled Postsecondary Vocational Institutions, November 2000, American Institute of Research"). The report identified the need for $17 million for the renovation of existing housing and instructional buildings and $30 million for the construction of housing and instructional facilities. These figures do not take into account the costs of inflation since the study was completed in 2000.

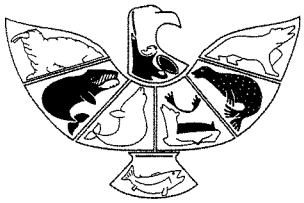
We continue to identify housing as our greatest need. Some families must wait from one to three years for admittance due to lack of available housing. Since 2005 we have assisted 311

families with off campus housing, a very expensive proposition. In order to accommodate the enrollment increase, UTTC partners with local renters and two county housing authorities (Burleigh, Morton).

UTTC has a new 86-bed single-student dormitory on campus. It is already completely full as are all of our other dormitories and student housing. To build the dormitory, we formed an alliance with the U.S. Department of Education, the U.S. Department of Agriculture, the American Indian College Fund, the Shakopee-Mdewakanton Sioux Tribe and other sources for funding. Our new dormitory has at the same time created new challenges such as shortages in classroom, office and other support facility space. However, more housing must be built to accommodate those on the waiting list and to meet expected increased enrollment. We also have housing which needs renovation to meet safety codes.

UTTC has acquired an additional 132 acres of land. We have also developed a master facility plan. This plan includes the development of a new campus on which would be single-student and family housing, classrooms, recreational facilities, offices and related infrastructure. A new campus will address our need for expanded facilities to accommodate our growing student population. It will also enable us to effectively address safety code requirements, Americans with Disabilities Act requirements, and to become more efficient in facility management.

Thank you for your consideration of our request. We cannot survive without the basic core vocational/technical education funds that come through the Bureau of Indian Affairs and Department of Education. They are essential to the operation of our campus and to the welfare of Indian people throughout the Great Plains region and beyond.



Alaska Native Health Board

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February 14, 2006

To: Chairman McCain
Senate Committee on Indian Affairs
Testimony for President's Fiscal Year 2007 (FY07) Budget for
American Indian and Alaska Native Health Programs
109th United States Congress
Washington, DC 20510

Submitted by the Alaska Native Health Board.

On behalf of the Alaska Native Health Board and our member organizations, I would like to first thank you Chairman McCain and Vice-Chairman Dorgan for the opportunity to testify before the Senate Committee on Indian Affairs hearing. I am Andrew Jimmie, the Chairman of the Alaska Native Health Board (ANHB) and I am here today to represent the ANHB and our member organizations by testifying on the Fiscal Year 2007 (FY07) Indian Health Service (IHS) budget advanced by the President. On behalf of the Alaska Native Health Board, it is an honor and pleasure to offer my testimony on the President's FY07 Budget for Indian Programs.

The Budget

The President recommends increases in nearly every line item of the Indian Health Service's budget, requesting that Congress appropriate about $3.2 billion dollars this year for health care delivery to America's Native Peoples and another $.8 billion in third party recoveries (such as Medicaid, Medicare and other third party insurance). ANHB notes with appreciation that the FY07 budget request continues the Administration's trend of slight increases to the IHS each year – but, with calculation for population growth

included, as well as inflation, America's Native populations cannot maintain even the status quo under this budget. Further, the budget seeks to completely cut funding to urban Indian clinics – a significant block in the foundation of the Indian health care delivery and a recommendation that is completely unacceptable to us.

We also realize the IHS fared quite well compared to other agencies; however, it and the Tribal governments providing health care services cannot begin to provide adequate health care with a 4% funding increase, especially considering inflation and, according to information provided by the National Center for Health Statistics, birth-death records indicating that the American Indian and Alaska Native population is increasing at 1.7% per year. The 1.7% population increase translates to approximately 70,000 new patients entering into the Indian Health care system annually.

The "Needs-Based Budget" developed for FY06 documents the IHS health care funding needs at $19.7 billion. The FY07 budget request amount of $4,003,906 (including third party recovery and mandatory spending) 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. This funding meets only 60 percent of established need for the Indian Health Service.

However, it is critical to realize that even the status quo for American Indian and Alaska Native health should not be acceptable to Congress – it would not be acceptable to your families - and is not acceptable to us.

Village Built Clinic

Alaska Specific Funding Request

FY 07 Goal: ANHB requests a $5.5 million increase for the Village Built Clinic (VBC) Lease Program over a three-year period.

The Village Built Clinic Lease Program funds rent, utilities, maintenance, and cleaning of healthcare facilities in small communities throughout rural Alaska. Despite an increase in the number and size of clinics, as well as the increasing costs of maintaining existing clinics, funding for the program has not increased since 1989. Village clinics serve as the foundation of the Alaska Tribal Health System (ATHS). Not only do the clinics provide a necessary space for community health aide/practitioners, but all visiting Indian Health Service (IHS), tribal, and state healthcare personnel also use them as a base from which to provide services. They serve as the "local hospital" for most rural Alaskans and operate as local branches with a vital referral connection to the larger regional hub hospitals. Quite often, the local clinics provide the outpatient services of the regional hospitals. For some residents, it is their only healthcare facility due to the high cost of traveling to a hospital. As funding for the VBC program has stayed frozen, clinics are incurring even more costs as a result of being held to even more rigorous (Joint Commission on Accreditation of Healthcare Organizations) standards of safety,

cleanliness, and confidentiality, along with the increased energy needs from a growing number of necessary electrical appliances. Add to these costs the unprecedented high cost of fuel in rural Alaska, and it becomes clear that village-built clinics are in a financial state of crisis.

In FY 1972 there were 156 health aides, and enough funding to lease 41 clinics from which to practice. The lease program gradually grew through the years until a total of 142 clinics were authorized and funded under the program. This cap remained for a number of years until FY 1989 when Congress increased the funding and raised the number of clinics that could be leased to the present level of 170. Funding for the IHS lease program has not grown since then and remains at $3.7 million. Without sufficient money to fully meet the lease needs, it has been the policy of the IHS to fund as many village leases as possible within the appropriated amount using a formula developed by tribal representatives in 1989. The lease budget is insufficient to provide for all eligible clinics and has created a queue for clinic leases in Alaska.

Currently, if an existing lease is terminated, the lease funds are allocated to the next clinic on the waiting list. Funding for new clinic construction/replacement through the Denali Commission provided many villages the opportunity to build larger, more modern clinics, or in cases where the clinic size was inadequate, to add on to an existing facility. As the clinics grow in size, the IHS has been unable to increase the lease amounts, much less provide an inflationary adjustment or account for additional utility costs. Over the many years that ANHB has been requesting this funding, other healthcare needs have also increased, and the IHS has been unable to divert additional healthcare dollars from other necessary programs to fund the lease program.

IHS Health Facilities

Alaska Specific Funding Request

FY 07 Goal: ANHB seeks $43 million in funding for the Samuel Simmonds Memorial Hospital in Barrow, and $20 million in funding for Norton Sound Regional Hospital in Nome.

The needs of Alaska healthcare locales far outweigh the capabilities of the current IHS budget. The Alaska Native Tribal Health Consortium completed an ATHS Services and Facilities Master Plan in February 2006. This plan outlines an inventory of more than $1.16 billion in an unmet need for healthcare facilities. The IHS faces a difficult challenge of dealing with aging facilities. The average age of an IHS facility today is 32 years, compared with 9 years for healthcare facilities in the private sector. It is essential that the Nome and Barrow hospitals, in accordance with their high ranking in the IHS priority list for facility construction, be funded as soon as possible.

Samuel Simmonds Memorial Hospital (SSMH):
The planning and site acquisition phase of the SSMH replacement project in Barrow is estimated at $8.5 million. IHS received $2.9 million in FY 2005 for land purchase and $8 million in FY 2006 for construction. The Denali Commission is participating as a funding partner and provided $2 million in FY 2004 and $5.9 million in FY 2005 for planning and design. Arctic Slope Native Association (ASNA) is charged with serving the health needs of nine communities that span a region larger than the State of Washington. For nearly 40 years the SSMH has served these remote villages. The single-story wood frame building lacks modernization and provides less than 25 percent of the space needed to meet the current patient demand.
The completed project is estimated to cost $138 million and ranks second for inpatient facility construction on the IHS priority list.

Norton Sound Regional Hospital (NSRH): Norton Sound Health Corporation operates NSRH, which is located in Nome. Like its counterpart in Barrow, NSRH was built in 1948 and serves 20 communities in the Bering Strait region. There is a critical need to develop a larger inpatient facility with expanded services—the existing structure is unable to house such capabilities. The hospital is not OSHA compliant and is plagued with unsafe wiring and plumbing, inadequate ventilation, structural problems and lack of a fire sprinkler system. The Denali Commission is participating as a funding partner and provided $2 million in FY 2003, $1.5 million in FY 2004, and $3.18 million in FY 2005 for planning and design. Additional funding is needed to complete design and preliminary construction. IHS has received no construction funding for this project. The completed project is estimated to cost $177 million and ranks third on the IHS outpatient priority list.

Water and Sanitation Systems
Alaska Specific Funding Request
FY 07 Goal: ANHB requests a $20 million increase in funding for IHS sanitation construction projects.
Historically, one of the biggest contributors to increasing human life span and healthier living has been the implementation and proliferation of water and sewage systems. Today, almost all of the developed world and many parts of developing countries have safe water for drinking, washing, and household needs. When clean water is so readily available for so many, including for most of Alaska residents, it is easy to take for granted. Safe drinking water and adequate disposal of sewage has also been responsible for a noted decrease in rates of intestinal diseases and post neonatal mortality in Alaska

Natives and American Indians (Indian Health Service, 2000). However, there is still an urgent and continuing need for safe running water and wastewater systems in many rural communities in our state. Since 1970, the percentage of rural, Alaska Native households with access to adequate sanitation facilities has increased from 13 percent to just over 80 percent (*Water and Wastewater in Rural Alaska*, State of Alaska, Division of Environmental Conservation)—a huge success resulting from federal and state funding coupled with local capacity. However, as the *Indian Health Service, Sanitation Facilities Construction, 2004 Annual Report* notes, there are still over 6,000 homes in rural Alaska without potable drinking water, and nearly 14,000 homes whose water, sewer, or solid waste systems require upgrades or improvements. Several Cabinet members have toured Alaska during the last several years, including Stephen Johnson, current Administrator of the Environmental Protection Agency. All of them acknowledged the water and sanitation deficiencies across the state. Former DHHS Secretary Tommy Thompson's visit resulted in a requested increase in funding in the President's FY 2004 budget for IHS sanitation construction projects that was the largest amount requested in more than a decade. The request totaled $114 million, a $20 million increase over the President's FY 2003 budget. This increase was not approved by Congress and remains a critical unmet need for Alaska.

ANHB requests that additional funding go to solid waste management programs and sanitation projects that are not eligible for existing funding sources. The most significant needs in rural Alaska with respect to water, sewer, and solid waste projects are:

1. Ability to plan and pay for on-going operation and maintenance of systems with state-funded programs, such as the Remote Maintenance Worker and Rural Utility Business Advisor programs.

2. Technical, financial, and managerial capacity building with regard to sanitation needs and empowering remote communities to manage and operate their systems in an effective manner for the expected life of the systems.

3. Adequate funding and support to plan, design, build, operate, and maintain community based rural sanitation

Base Operating and
Contract Support Costs

FY 07 Goal: ANHB recommends a 20 percent increase in funding of the Indian Health Service (IHS) budget to address mandatory costs increases, to provide necessary funding to reduce health disparities and to restore unfunded, mandatory costs from previous years. FY 07 Goal: ANHB recommends full funding for Contract Support Costs.

The mandatory costs of maintaining and preserving the basic level of care are unavoidable. The effect of rescissions have an adverse impact by eroding the IHS base

budget, which ultimately means these costs are covered by cutting health services. Moreover, recent state fiscal crises and proposed changes will impact Medicaid and Medicare collections and will have an adverse effect on the ability of IHS and tribally operated health programs to collect third party reimbursements, further reducing the budget for Indian health programs.

Contract support funding

The ANHB joins the National Indian Health Board, and the National Congress of American Indians, the Tribal Self-Governance Advisory Committee and other tribal organizations in calling for full funding of Contract Support Costs (CSC).

CSC funding to support ongoing programs for Alaska tribal health organizations has decreased in absolute dollar amounts for two of the past three years. These decreases place a disproportionate burden on tribes operating IHS programs, as costs that the tribal contractors must incur to prudently operate the IHS programs are shifted more and more to the funding Congress had intended to support direct healthcare services. This burden is felt more heavily in Alaska, as the Alaska Area of the IHS has the highest percentage and largest absolute amount of self-determination contracting and compacting in the nation. Since 2000 the percentage of CSC costs IHS has funded nationally has declined from almost 90 percent of the need as defined by the IHS in its CSC shortfall reports, to a level that will be under 65 percent of the estimated amount required in FY 2007. This means that in a period of inflating costs and restricted appropriations for all health care, Alaska tribal health organizations have fewer dollars to provide services. In 2005 Alaska tribal health care organizations were under-funded for CSC by over $37 million. This represents over 43 percent of the IHS CSC shortfall for the entire nation. This number will continue to grow in FY 2006 and 2007 unless adequate funding is obtained. In FY 2006 the additional amount of CSC required to fully fund contract support for ongoing programs is estimated at $90 million. The additional amount of CSC required for FY 2007 would include this amount plus additional funding to support a 20 percent program increase requested to support IHS programs. The amount required to fund CSC on ongoing programs in FY 2007 would be $162 million. This does not include money for the ISD fund to support tribes wishing to contract for new or expanded functions under ISDA contracts or compacts

Medicare, Medicaid, and SCHIP

The U.S. trust responsibility for American Indian and Alaska Native (AI/AN) health requires the Secretary of Health and Human Services to provide health care. Due to the gap between IHS funding and need, health services to AI/ANs are severely rationed. Due to this disparity, Congress authorized the IHS and tribal health programs to recover

reimbursements from Medicaid, Medicare and State Children's Health Insurance Programs (SCHIP).
Even taking into account both sources of funding (direct IHS appropriations and all collections, including Medicaid, Medicare and SCHIP), Indian health programs are only funded at 57 percent of the need. Any reduction in the availability of Medicaid, Medicare and SCHIP will have a significant, negative effect on the ability of Indian health programs to provide even the current restricted level of health services to AI/ANs. Reducing the federal share of the cost of Medicare and Medicaid services to AI/AN beneficiaries merely shifts the costs to the already grossly inadequately funded Indian health system and puts additional pressure on the IHS budget.

FY 07 Goal: ANHB is encouraged by the Centers for Medicare and Medicaid Services' (CMS) efforts to adopt an AI/AN strategic plan. We support the completion of this project.
FY 07 Goal: ANHB applauds CMS efforts to improve consultation with tribes and tribal organizations.
FY 07 Goal: The CMS Tribal Technical Advisory Group (TTAG) provides expertise to the administrator of the CMS on policies, guidelines and programmatic issues affecting healthcare delivery for AI/ANs. ANHB supports the work and effort of the TTAG to improve processes at CMS so that all AI/ANs are able to take full advantage of the Medicaid, Medicare, and SCHIP programs, including the new prescription drug benefit, and all Indian health programs can fully participate in the programs.

Medicaid proposals
Waive cost sharing for AI/ANs. As a part of the federal government's responsibility to provide health services to AI/ANs, Congress should eliminate or waive all cost sharing (including premiums, co-pays, and deductibles) for AI/AN Medicaid beneficiaries who receive their healthcare through any IHS funded program.
State flexibility in Medicaid benefits for AI/ANs and tribal health programs.
When states are afforded flexibility to vary Medicaid benefits within a state, they should be required to offer AI/AN Medicaid beneficiaries the most complete benefit package and conditions of participation offered anywhere in the state. States must be prohibited from offering benefit packages that limit the amount, duration, and scope to AI/AN beneficiaries anywhere in the state. Additionally, when states are afforded flexibility to vary Medicaid benefits within a state, states should be required to allow IHS, tribal and urban Indian health programs to provide the most complete benefit package and conditions of participation offered anywhere in the state.
Exemption of AI/AN assets from eligibility and estate recovery rules.

At a minimum all assets of AI/AN individuals described in CMS's State Medicaid Manual, Section 3810.A.7, should be exempt from Medicaid eligibility calculations and estate recovery provisions. These include religious, spiritual, cultural, and subsistence property that support traditional lifestyles of AI/ANs.

Medicare proposals

Medicare-like rates regulations.

The Medicare-like rates need to be published for public comment and implemented immediately. They were supposed to be in effect in more than a year ago. The failure to adopt them is costing the drastically under-funded contract health services program money that it can scarcely afford to lose.

Outreach, education and enrollment.

CMS should simplify outreach, enrollment and eligibility determinations for AI/AN beneficiaries for Medicare, Medicaid, and SCHIP programs and provide adequate direct funding for Indian health providers to ensure culturally appropriate and effective outreach and enrollment efforts at the community and point-of-service level.

Community Health Aide/Practitioner

Alaska Specific Funding Request

FY 07 Goal: ANHB requests a $9.9 million increase for the Community Health Aide/Practitioner Program.

The Community Health Aide/Practitioner (CHA/P) concept was borne out of the need to respond to widespread health threats rampant in rural Alaska in the 1950s, including the tuberculosis epidemic, high infant mortality, and a high rate of injuries in rural areas. The CHA/Ps are the first responders and the only access to healthcare in 178 remote Alaska villages.

The CHA/P Directors Association outlined a needs assessment of the statewide programmatic shortfalls. The resultant report, *Community Health Aide Program Update 2001—Alaska's Rural Health Care at Risk*, summarized the data for funding recommendations in the following order of priority:

1. $300,000 for assuring program standards.

2. $6.1 million for increasing CHA/P positions and increasing salaries.

3. $2.3 million for increasing the number of field supervisors by 45 percent (23 positions).

4. $1.2 million for increasing training capacity.

As this program is currently unique to Alaska, it has proven effective as a model for the delivery of primary healthcare services in rural and geographically challenging areas throughout the United States.

Medevac and Patient Travel

Alaska Specific Funding Request

FY 07 Goal: ANHB requests $2 million in recurring base funding through IHS to sustain the current level of critical care air ambulance (medevac) services, and seeks an additional $2 million increase ofrecurring base funding to adequately address patient travel needs.

Medevac services

The capacity to transport patients to appropriate levels of care via air ambulance or medevac—when time is of the essence—is a vital component of the Alaska Tribal Health System (ATHS). The increasing costs associated with medevacs (village to hub communities, and hub to Anchorage), has become a significant concern within the ATHS. To better understand the utilization and cost of medevacs in the ATHS, a survey was conducted to capture number of medevacs flown and cost to the system. System-wide, 2,600 medevac missions were flown in FY 2004. The up-front costs to the ATHS have been estimated at $18 million. After reimbursement from third-party payers (e.g., Medicaid, private insurance) tribal health organizations still have out-of-pocket costs of approximately $8 million.

While the number of medevacs has increased slightly in the past four years (6 percent increase from FY 01-04), the cost of medevacs has increased substantially in the same time period. For medevacs provided by the statewide-preferred carrier and processed by Contract Health Services (representing 40 percent of total medevacs) there was a 111 percent increase in costs from FY 01-04. Furthermore, changes in Medicaid eligibility requirements and other policy changes have resulted in decreased air ambulance reimbursement with a corresponding increased cost burden being transferred to the tribal health organizations within the ATHS (i.e., the percentage of medevac flights paid by Medicaid declined in FY 02 while the percentage of medevacs paid for by tribal entities increased in the same year, a trend that has persisted to present). ATHS participants have a commitment to excellence in medevac services. To that end, work is under way to gain efficiencies, optimize third party reimbursement, and help ensure that best practices are the standard for medevacs. However, it is clear that ATHS will not be able to keep up with the rate of increase in costs associated with providing medevac services.

A recurring funding increase of $2 million would help to maintain medevac services at the current level.

Patient travel

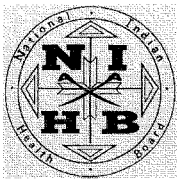
The success of the ATHS in meeting the healthcare needs of Alaska Natives is dependent, in part, on our capacity to transport our patients from their village to hub facilities, and from there to Anchorage, and from Anchorage to out-of-state for appropriate, timely care (patient travel here includes all non-medevac patient transport, almost exclusively via commercial airlines). To better understand the utilization and cost of patient travel in the ATHS, a survey was conducted to capture numbers of patients flown and the cost to the system.

In Fiscal Year 2004, over 36,000 patients were flown for care in the ATHS via commercial airlines at a cost of approximately $10.6 million. This should be considered a low-end estimate, as it does not include data from one of the larger ATHS tribal health organizations. Both the number and the total amount spent on patient travel increased over the three-year period covered by the survey. To appreciate the distances traveled within the ATHS, consider this: A woman living in Kotzebue (a hub community in northwest Alaska) who has an abnormal mammogram, and who needs follow-up care for it in Anchorage, must travel the same distance as a woman living in Seattle who is seeking follow-up care in San Francisco.

An increase of $2 million would enable our health administrators to meet the demands of patient travel without detracting from other services.

In Conclusion

On behalf of the Alaska Native Health Board, I thank the Committee for inviting us to be here today and for its consideration of our testimony. We are grateful for your commitment and for your concern for the improvement of the health and wellbeing of American Indian and Alaska Native people. We must abate the terrible disparities between the health of American Indians and Alaska Natives when compared to other Americans and that demands a greater increase in funding of the Indian Health Service. Specifically, we request a financial and policy commitment from Congress to help America's Native People's move beyond the status quo and begin to achieve true progress in changing the reality of health care inferiority known to us. A Ten percent increase over current funding levels would be a convincing articulation of that commitment.



NATIONAL INDIAN HEALTH BOARD

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Testimony of the National Indian Health Board
Presented by Kathy Kitcheyan
Chairwoman – San Carols Apache Tribe
And Board Member
National Indian Health Board
On the
President's Fiscal Year 2007 (FY07) Budget for
American Indian and Alaska Native Health Programs
February 14, 2006 – 2:30 p.m.

"The most basic human right must be the right to enjoy decent health. Certainly any effort to fulfill Federal responsibilities to the Indian people must begin with the provision of health services. In fact, health services must be the cornerstone upon which rest all other Federal programs for the benefit of Indians."

H.R. Rep. No. 94-1026, pt. 1, at 13 (1976)
Indian Health Care Improvement Act of 1976

Chairman McCain, Vice-Chairman Dorgan, and distinguished members of the Senate Indian Affairs Committee, I am Kathy Kitcheyan, Chairwoman of the San Carlos Apache Tribe, located in San Carlos, Arizona - and Board member of the National Indian Health Board (NIHB). I am here today to represent the NIHB by testifying on the Fiscal Year 2007 (FY07) Indian Health Service (IHS) budget advanced by the President. On behalf of the National Indian Health Board, it is an honor and pleasure to offer my testimony on the President's FY07 Budget for Indian Programs.

Established in 1972, NIHB serves Federally Recognized American Indian and Alaska Native (AI/AN) Tribal governments by advocating for the improvement of health care

delivery to American Indians and Alaska Natives, as well as upholding the federal government's trust responsibility to American Indian and Alaska Native Tribal governments. We strive to advance the level and quality 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 Area.

The Budget

The President recommends increases in nearly every line item of the Indian Health Service's budget, requesting that Congress appropriate about $3.2 billion dollars this year for health care delivery to America's Native Peoples and another $.8 billion in third party recoveries (such as Medicaid, Medicare and other third party insurance). NIHB notes with appreciation that the FY07 budget request continues the Administration's trend of slight increases to the IHS each year – but, with calculation for population growth included, as well as inflation, America's Native populations cannot maintain even the status quo under this budget. Further, the budget seeks to completely cut funding to urban Indian clinics – a significant block in the foundation of the Indian health care delivery and a recommendation that is completely unacceptable to us. Indeed, in the current economic environment, the President's request is appreciated.

We also realize the IHS fared quite well compared to other agencies; however, it and the Tribal governments providing health care services cannot begin to provide adequate health care with a 4% funding increase, especially considering inflation and, according to information provided by the National Center for Health Statistics, birth-death records indicating that the American Indian and Alaska Native population is increasing at 1.7% per year. The 1.7% population increase translates to approximately 70,000 new patients entering into the Indian Health care system annually.

The "Needs-Based Budget" developed for FY06 documents the IHS health care funding needs at $19.7 billion. The FY07 budget request amount of $4,003,906 (including third-party recovery and mandatory spending) 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.

However, it is critical to realize that even the status quo for American Indian and Alaska Native health should not be acceptable to Congress – it would not be acceptable to your families - and is not acceptable to us. **We request a financial and policy commitment from Congress to help America's Native People's move beyond the status quo and begin to achieve true progress in changing the reality of health care inferiority known to us. A ten percent increase over current funding levels would be a convincing articulation of that commitment.**

Indian Country is acutely aware of the funding challenges faced by the federal government. The release of the President's budget last week confirmed the reality that federal spending for all non-defense discretionary programs will be extremely limited. American Indians and Alaska Natives have long been supportive of national security

efforts and will continue to do so. However, we call upon Congress and the Administration to work with Indian Country to find innovative ways to address the funding disparities that continue to hamper Indian Country's efforts to improve the health status of American Indians and Alaska Natives. Funding for the IHS has not adequately kept pace with population increases and inflation. While mandatory programs such as Medicaid and Medicare have accrued annual increases of 5 to 10 percent in order to keep pace with inflation, the IHS has not received these comparable increases. **We will be working with Congress during this appropriations cycle to increase funding for the IHS by 10 percent over the FY06 appropriated levels.**

We in Indian Country deeply feel the challenges facing our nation. One of the most pressing challenges is restoring the lives of those ravaged by brutal forces of nature - the hundreds of thousands forced from their homes, moved to distant and strange locations and wondering whether relief will be swift and complete, or when it will happen, at all. There are entire cities to be rebuilt and lives to be reconstructed. American Indians and Alaska Natives understand what this is like and we support Congress's efforts to assist these disaster victims with rebuilding their lives, their families and their cities. On another front, America is at war both in distant lands and here in our own homeland and I remind you that as citizens of this great nation, American Indians have the highest per-capita participation in the armed services of any ethnic group. There is a record deficit. These and many other realities confronting the federal government create enormous fiscal challenges. American Indians and Alaska Natives support disaster relief, national security, and fiscal responsibility and will continue to do so. The release of the President's budget last week made clear federal spending will be remarkably limited. We must, however, once again call upon Congress to work with Indian Country and the Administration to confront and make measurable progress in addressing the funding disparities that persist and promote our mission and the law of this land 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.

American Indians and Alaska Natives lag behind every other group in America in most economic indicators – but we are in 1st place for health disparities – in some cases – such as in the speed with which we acquire HIV and AIDS in certain age groups and in infant mortality in the Northern Plains – we are first in the whole world. But in the richest, most powerful country in the world, a country whose very foundation – quite literally – sits on the American Indian homeland that was largely traded for guarantees of peace and health care, among other things– can't we do better? A Nation that can produce the space program cannot produce health equity for its Native Peoples? When the United States of America is contemplating methods through which it can provide universal healthcare to the people of Iraq – we simply ask that our Nation look within its own borders first – and invest and commit to its first relationship – its relationship with Native America. Let's make the health care system for American Indians a model for the world – a model we would be proud to export to any Country we genuinely seek to help. And one they would welcome – not fear.

Poor Health Funding = Poor Health Status:

We request $200 million for the Well Indian Nations Initiative – crafted to undertake disease prevention and health promotion activities in Indian Country.

American Indians and Alaska Natives have a lower life expectancy and higher disease burden than others. Approximately 13 per cent of AI/AN deaths occur among those under the age of 25, a rate three times that of the total U.S. population. Our youth are more than twice as likely to commit suicide, and nearly 70 per cent of all suicidal act in Indian Country involve alcohol. We are 670 percent more likely to die from alcoholism, 650 per cent more likely to die from tuberculosis and 204 per cent more likely suffer accidental death. Disproportionate poverty, poor education, cultural differences, and the absence of adequate health service delivery are why these disparities continue to exist.

Public health is the underpinning for wellness in Indian Country and public health includes clean, safe drinking water and sanitation services as well as disease prevention through education, immunization and screening programs for early detection and intervention; mental health; dental health; social services; nutrition counseling; public health nursing; substance abuse treatment and injury prevention.

Funding Commitments=Improved Health Status

The United States has made tremendous strides as a nation when it comes to public health. This is due largely to the federal government's commitment to health research as well as disease prevention and health promotion action. This became evident with the National Institutes of Health (NIH) when a bipartisan effort to double their funding became a successful movement in the first session of the 105th Congress and was accomplished at a level of $27.221 billion by 2003.

Senators, the United States has made tremendous strides as a nation when it comes to public health outcomes, as evidenced by increased life expectancy rates for the overall population. Let's take cancer as an example, which is the second leading cause of death for all Americans. Last week it was announced that for the first time in more than 70 years, the number of people dying of cancer in the United States has declined. The report, hailed as a milestone, comes from an analysis of death statistics gathered by the federal government. Nationwide in 2003, 369 fewer people died from cancer than the year before. All told, about 557,000 people died from cancer. But until 2003, every year we saw an increase in cancer deaths. Officials say the overall drop results from declines in lung, breast, prostate and colorectal cancers. Earlier diagnoses, better treatments and a decline in smoking have contributed to the decrease.

However:

- Lung cancer is the leading cause of cancer death among American Indians and Alaskan Natives.

- Cancer is the second leading cause of death for all American Indians and Alaska Natives 45 years of age and over.
- Cancer is the leading cause of death for Alaska Native Women.
- Cancer is the third leading cause of death for all American Indian and Alaska Natives of all ages.
- American Indians and Alaska Natives have the poorest survival from most cancer sites in comparison with other racial and ethnic groups in the US (e.g. African American, White, Hispanic, Asian American and Pacific Islander).
- Gall bladder cancer is more commonly diagnosed among American Indians from the southwestern region of the US than another minority group.
- Alaska Native women have the highest incidence of mortality from colorectal cancer of any other racial and ethnic group in the US.
- American Indians have the poorest survival from lung cancer of another other US racial or ethnic group.
- American Indians have very high rates of exposure to cancer risk factors, particularly cigarette smoking.
- Over 53% of American Indian men and 33% of American Indian women are cigarette smokers.
- In some communities the smoking rate is as high as 73% total (tribal nation in north central states).
- American Indians have a 42 % tobacco usage rate, the highest of all minority groups in the US.
- The death rate among American Indians due to tobacco abuse is twice that of the US population. An average of 2 out of every 5 American Indian smokers die of tobacco abuse.
- Alaska Native mean and women each have the highest incidence rate of kidney cancer of any other racial group.

Yet, of 217 native languages spoken in America today most do not include a word for "cancer."

Diabetes

Again, American Indians and Alaska Natives are first in the Nation for incidence of Diabetes: It is an epidemic. In Indian Country we are 318 per cent more likely to die from diabetes compared to others and about 73 per cent of people with diabetes also have high blood pressure. Congress established a Special Diabetes Program for Indians yet critical funding to continue basic clinical exams, laboratory tests, screening, education and awareness are set to end next year (2008). The renewal of the Special Diabetes Program funding is a top priority for NIHB and we ask that it be a top priority for Congress, as well.

There is little doubt that these statistics could be radically improved if adequate funding was available to provide consistent, basic health care and to enhance and continue public health programs that promote healthy lifestyles. The Special Diabetes Program for Indians is a successful example that health promotion and disease prevention work.

Contract Support Costs (CSC)

We request an additional $90 million over the current request in order to assure that contract support costs obligations will be met.

The President's FY07 budget request includes a $5.586 million increase in contract support costs. We understand that these are difficult budgetary times and that this increase represents successful efforts on behalf of the Administration and Tribal Leadership to increase funds for contract support costs. In that spirit of appreciation, it also must be stated that the demonstrated need for contract support costs is in excess of $90 million over existing appropriated levels. The President's request of a $5.586 million increase is the first step toward meeting the government's obligations and we request that Congress continue to seek opportunities to advance this effort and provide the necessary resources to Tribal governments operating their own health care systems

The $90 million gap is between current funding and the funding needed for the contracts with tribes into which IHS already has entered. The President's budget request for IHS contract support costs will not begin to address existing contractual obligations. The "Justification of Estimates for the Appropriations Committee" published by the Department of Health and Human Services (HHS) to explain the budget requests for the Indian Health Service states:

"Finally, in continuing to manage CSC funding, and in response to the March 2005 Supreme Court decision in *Cherokee Nation vs. Leavitt* - the IHS as issued additional guidance concerning any new or expanded contracts or compacts being entered into for the balance of FY06 or anticipated in FY07. This guidance requires that tribes and the IHS reach agreement concerning the amount of ISD/CSC funding available and the obligation of the IHS to fund CSC pursuant to the appropriations "cap" on CSC. If there is no agreement on the part of the Tribe then the new or expanded program request will likely be declined. These principles need to be adhered to in the face of limited CSC appropriations, or in instances where the CSC funding may not be available in order for the IHS to enter into new contracts or compacts under the Indian Self-Determination and Education Assistance Act *(ISDEAA – acronym added)*. If the Tribe and the IHS could

not reach agreement, the proposal to contract for the new and expanded PFSA/PFSA would be declined."

This statement suggests that IHS intends to enter into only pre-paid contracts or compacts. And, at the current level - considering the backlog of payment and the level of funding requested by this budget - the outcome is that there would not be funding for any new contracts or compacts in 2007 - or else current contracts or compacts would have to be renegotiated to allow for new compacts or contracts under ISDEAA.

If this is a correct interpretation of the justifications offered to Congress by HHS, it would appear that Tribes would be compelled to sign away their statutory rights as a condition to securing a contract to take on any new or expanded programs.

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 $90 million to meet the shortfall for current contracting and compacting, and to allow for funding in anticipation of the 20-25 additional Tribal programs anticipated.

This funding is critical to supporting tribal efforts to develop the administrative infrastructure gravely necessary 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. Failure 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.

Urban Clinics

The President's FY07 budget recommends cutting all funding to the urban health programs for American Indians and Alaska Natives.

We strongly support the continuation of the urban Indian Health Programs and request they are funded at FY06 levels while enjoying the same 4% increase the general ledger of IHS is recommended to receive under the President's FY07 budget.

Urban Indian health programs, which receive only one percent of IHS funding, provide unique and non-duplicable assistance to Urban Indians who face extraordinary barriers to accessing mainstream health care. Community Health Centers cannot come close to matching the effectiveness of the Urban programs in addressing the needs of urban Indians. Through a culturally savvy and cultural-competency-based approach to Native health, these programs overcome cultural barriers to health care delivery. Many Native Americans are reluctant to go to health care providers that are unfamiliar with Native cultures. Through disease prevention and health promotion activities, urban Indian health programs save money and improve medical outcomes for the patients they serve. As stated in the Indian Health Care Improvement Act, Congress has recognized the value of these programs by stating that:

"it is the policy of this Nation, in fulfillment of its special responsibility and legal obligation to the *American Indian people*, to meet the national goal of providing the highest possible health status to Indians *and urban Indians* and to provide all resources necessary to effect that policy."25 U.S.C. Section 1602(a)(emphasis added)."

In the HHS FY07 Justification of Estimates for the Appropriations Committee, the rationale for cutting this program is:

"IHS resources have always been targeted to providing health care to communities on or near reservations. For many of these communities, health care from outside the IHS does not exist…One important source of health care for all low income urban Americans is the Health Centers Program."

The assumption is that American Indians and Alaska Natives will seek health care from community health centers through the Health Centers Program. First of all, American Indians and Alaska Natives receive health care through IHS not because they are poor, although it is clear that most are economically disadvantaged; rather, it is because they are **Indian**. Providing health care is part of the Federal Government's trust responsibility toward America's Native People and is not an obligation that is determined by geography-alone.

Second, the fact is that no one knows what will happens if the urban clinics are closed. It is possible that because community health centers are not trained in American Indian cultural competency and are not adequately funded to absorb this new population, urban Indians will either forego seeking care or return to their reservations or Native communities to acquire medical attention. Further, even the National Association of Community Health Centers, Inc. does not support this policy. In a February 10, 2006 letter to the President, they state that "we believe that elimination of the UIHP would be detrimental to the operations of health centers in the 34 communities currently served by Urban Indian Health Organizations." The letter goes on to state that according to the

Indian Health Service's most recent estimates, only 22 percent of the projected need for primary care services among urban Indians is currently being met. Further, "IHS has identified 18 additional cities with AI/AN populations large enough to support" an urban program.

Third, if urban Indians return to there reservations or communities to seek health care, there is contained in this budget no subsequent increase in funding to the Tribes to accommodate this potential increase in patients. **Because there could not only be an impact on the Tribes, but the potential exists for a *substantial impact* on the Tribes – we request that HHS Tribal Consultation takes place before any policy decisions are made to close the Urban Indian Clinics.**

Finally, in the 21st Century it is imperative that the Federal Government act more prudently when making policies that will clearly create upheaval of large numbers of American Indians. American Indians and Alaska Natives are the most vulnerable population in this Nation, and it is an unacceptable US Policy that enters into a plan concerning us for which no clear outcome is known. **Therefore, if closing Urban Indian health clinics is a goal of the US Government, in addition to Tribal Consultation, we also request that the General Accountability Office be engaged to conduct a study to estimate possible outcomes and recommend fact-based options – and that no such plan be wholesale foisted upon the Nation's Native People – but, a demonstration project in a single Area be undertaken to ensure continuity of care.**

Health Facility Construction: The One Year Pause of '06 Continues

We request a restoration of facilities construction funding at FY05 levels

In the FY06 budget, the President requested a staggering decrease, in excess of $85 million for health care facilities construction (HCFC), leaving only $3.32 million in the entire health care facilities budget. This cut was characterized as a "one year pause." Now the "One Year Pause" - which implies a restoration of funds once the pause is over – becomes an even deeper cut: the opposite of what was promised. Mr. President, we are asking you to be true to your word restore the funding for this program. Members of the Senate Committee on Indian Affairs, please help us realize the restoration of these funds and pause the one year pause of '06.

This section of the budget includes construction of new facilities, such as inpatient hospitals, outpatient hospitals, staff quarters for health professionals, regional treatment centers and joint venture construction programs. It also includes the small ambulatory program and the construction of dental facilities. These elements constitute the entire physical infrastructure of the health care delivery system in American Indian and Alaska Native communities. The proposal reflects a desire to institute a "one year pause in new health care facilities construction starts in order to focus resources on fully staffing facilities that have been constructed and are opening in Fiscal Years 05 and 06." While the goal of achieving full staffing in American Indian and Alaska Native clinics and hospitals is commendable, and one we support, disease processes and illnesses do not

take a "pause." Funding to provide adequate facilities to address disease and illness for Native Peoples cannot afford to take a "pause." Stalling health care construction for one year, if it indeed is only for one year, will achieve a setback from which it will take Indian Country a decade to recover. Additionally, the Program Assessment Rating Tool (PART) for FY 2006 measured the IHS HCFC program as "effective," which is an indication that the HCFC program is an effective use of federal resources. The Indian Health Service has taken many steps to operate in an efficient manner and cutting programs that utilize federal dollars responsibly serves as a disincentive.

Indian Health Care Improvement Act

Finally, Mr. Chairman, I would be remiss if I did not mention it has been nearly 14 years since the Indian Health Care Improvement Act (IHCIA) was updated. Indian Country is grateful to you and Senator Dorgan and to the members of the Senate Committee on Indian Affairs for your leadership, commitment of the Committees time and staffing resources and the personal time and energy you have invested into achieving the reauthorization during this Congress. As you know, the United States has a longstanding trust responsibility to provide health care services to American Indians and Alaska Natives. This responsibility is carried out by the Secretary of the United States Department of HHS through the Indian Health Service. Since its passage in 1976 the IHCIA has provided the programmatic and legal framework for carrying out the federal government's trust responsibility for Indian health. The IHCIA is the law under which authority under which health care is administered to American Indians and Alaska Natives. That is why it is so important to all American Indians and Alaska Natives that this law be modernized and reauthorized this year. The National Indian Health Board is committed to seeing IHCIA successfully reauthorized during the 109th Congress.

In Conclusion

On behalf of the National Indian Health Board, I thank the Committee for inviting us to be here today and for its consideration of our testimony. We are grateful for your commitment and for your concern for the improvement of the health and well-being of American Indian and Alaska Native people. We must abate the terrible disparities between the health of American Indians and Alaska Natives when compared to other Americans and that demands a greater increase in funding of the Indian Health Service. Specifically, we request a financial and policy commitment from Congress to help America's Native People's move beyond the status quo and begin to achieve true progress in changing the reality of health care inferiority known to us. A Ten percent increase over current funding levels would be a convincing articulation of that commitment.

We urge you to do so and we look will work with you to realize that end.

Navajo Nation Statement
To the
U.S. Senate Committee on Indian Affairs
Regarding Funding for
BIA Law Enforcement Programs in the
President's FY 2007 Budget Request

February 14, 2006

A. Introduction. Chairman McCain, Senator Dorgan and members of the Committee, thank you for this opportunity to provide comments on behalf of the Navajo Nation with regard to the President's proposed FY 2007 Budget for funding Indian Country law enforcement programs. My name is Hope MacDonald-Lone Tree.[1] I am an elected delegate to the Navajo Nation Council and serve as the Chairperson of the Public Safety Committee of the Navajo Nation Council. I also serve as the Navajo Nation representative to the joint Bureau of Indian Affairs/Tribal Budget Advisory Council's Workgroup on Indian Law Enforcement, a national workgroup that advocates for Indian law enforcement budgetary needs.

For several years, the Navajo Nation has made public safety its top priority and urged the Federal government to increase funding to this vital area. Similarly, both the BIA/Tribal Budget Advisory Council and the National Congress of American Indians have adopted public safety funding as a top priority for the Federal Indian programs budget.

The President's FY 2007 Budget continues a positive trend of adding resources for Indian Country law enforcement in the BIA Budget, but those gains are outweighed by proposed cuts in the Indian programs portion of the FY 2007 Justice Department budget. Also, the budget does not address the desperate need for detention facilities at the Navajo Nation, where 34.2% of the on-reservation Indian population in the United States resides.

B. FY 2007 BIA Law Enforcement Budget. The President has proposed a 4.3% increase in law enforcement funding in the FY 2007 BIA law enforcement budget, while essentially holding level public safety construction funding. Since FY 2005, these two accounts have experienced an increase of 13.8%. This positive trend is greatly appreciated by the Navajo Nation.[2]

Bureau of Indian Affairs	**2005 Actual**	**2006 Enacted**	**2007 Request**
Law Enforcement	180,063,000	193,377,000	201,620,000
Public Safety Construction	7,381,000	11,603,000	11,611,000
TOTAL	187,444,000	204,980,000	213,231,000

Notwithstanding the generally positive trend in these funding levels, the Navajo Nation has three concerns:

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[2] These calculations do not include the tribal courts program, which the President has proposed to cut by 32% in his FY 2007 budget.

- **First, while the President's Budget would provide critically needed funding for detention facility operation and repair, virtually all of that funding is directed at BIA facilities, while the Navajo Nation, which according to the 2000 census has 34.2% of the on-reservation Indian population,[3] gets no funding for its decaying facilities because they are not BIA-owned and operated.** There has been a great deal of attention paid in the last two years to the dangerous state of many Indian Country facilities. The BIA has moved to address this situation, but only with its own facilities. The Navajo facilities are widely acknowledged as posing a danger both to staff and inmates, yet the Navajo Nation facilities have not received the benefit of this funding. Moreover, without adequate detention facilities, perpetrators know that they will soon be back out on the street, often within just hours. The Navajo Nation urges the Congress to direct the BIA to apply a fair portion of this funding to addressing the detention facility crisis on the Navajo Nation.
- **Second, in order to elevate Indian law enforcement capabilities sufficiently to make a difference, the Navajo Nation has advocated for annual 8-10% increases in the law enforcement budget between the years FY 2006 through FY 2009.** This target was reached in FY 2006, but not in the President's proposed budget for FY 2007. Through such significant, but incremental increases, public safety capabilities throughout Indian country can be noticeably improved. The Navajo Nation urges the Committee to support an 8-10% increase for public safety funding in FY 2007.
- **Third, the budget does not address the need to establish a formula for the distribution of BIA public safety funds in a sound, policy-based fashion.** Currently, the BIA cites "historical precedent" as their methodology for determining how to distribute these funds. This has clearly been to the detriment of the Indian population on the Navajo Nation, which is 34.2% of the entire on-reservation Indian population in the United States, but the Navajo Nation receives only 12% of BIA public safety dollars. The on-reservation Indian population is the most important factor that should drive distribution of law enforcement dollars since tribes only have criminal jurisdiction over the on-reservation Indian population, although other factors such as land base (Navajo Nation has the largest land base by far of any Indian tribe, with 21.4% of all Indian Country), crime rate (the Navajo Nation has a higher crime rate than the Indian Country average) and economic conditions (the Navajo Nation has far worse economic conditions than the Indian Country average), should also be factored in. The inequity in the BIA funding process has greatly damaged the ability of Navajo Nation law enforcement to provide adequate public safety services to the people it serves. The Navajo Nation urges the Congress to direct the BIA to establish a sound, policy-based funding formula for the distribution of these funds.

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[3] See generally Taylor, Jonathan B. and Joseph P. Kalt, *American Indians on Reservations: A Databook of Socioeconomic Change Between the 1990 and 2000 Censuses* (2005), Harvard Project on American Indian Economic Development (http://www.ksg.harvard.edu/hpaied). Notably, the on-reservation population of the Navajo Nation "is twelve times that of the next largest reservation and nearly three times the combined Indian populations of the other reservations that did not have gaming by [2000]." *Id.*

C. FY 2007 Justice Appropriations for Indian Programs – A Giant Cut in Overall Indian Program Funding. While the President's budget calls for increasing COPS funding for Indian tribes from $15 million to $31.065 million "for improving tribal law enforcement, including equipment and training," this increase largely reflects the elimination and consolidation of other programs which, for FY 2006, were funded at a level of $47 million. The FY 2006 funding was allocated as follows:

FY 2006	
Mississippi Choctaw Judicial Center/Detention Facility	$9 million
Tribal Courts	$8 million
Demonstration projects on alcohol and crime	$5 million
COPS Funding	$15 million
Tribal Youth Program	$10 Million
TOTAL	$47 Million

The President's proposal represents a 34% cut in Indian program funding in the Justice Department budget, totaling just under $16 million. This cut would wipe out the gains from funding increases in the BIA budget.

The Navajo Nation is in desperate need of new detention facilities. Without adequate detention facilities, perpetrators know that they will be held for only a few hours and, even after conviction, may serve little or no time. Notably, in the FY 2006 Justice Budget, for the first time in eight years, Congress provided funding for the construction of a new detention facility in Indian Country. With funding, principally approved eight years ago, the Department of Justice in a joint Justice-Interior initiative has built or expanded 21 detention facilities in Indian country, but no new adult facilities have been built on the Navajo Nation. In fact, at the start of this initiative a list was compiled prioritizing the facilities needed across Indian country. There were three Navajo facilities on that list; every facility ahead of these three have been built, as well as several after.

The Navajo Nation urges the Congress to:

- **Provide a Special Funding Initiative to Build the Next 15 Indian Country Detention Facilities.** To address the DOJ-documented crisis in Indian Country detention facilities, at least 15 new facilities, including both tribal and BIA facilities, need to be funded over the next three years (approximate cost: $150 million).
- **Appropriate Funding Immediately for Two New Navajo Detention Facilities – $9 Million Each.** The Navajo Nation is planning to construct seven detention facilities with an immediate need for two facilities - one to serve New Mexico portion of the reservation and one to serve the Utah and Arizona portions of the reservation.
  - **Temporary Facilities ($3,133,280).** The Navajo Nation also seeks funding for four modular bunkhouse buildings at a cost of $783,320 each, or a total cost of $3,133,280, to address an urgent need resulting from the condemnation of one of the current, aging Navajo facilities.
- **Appropriate Funding to Provide an Immediate Increase in the Navajo Police Force by 100 officers.** The Navajo Nation polices an area the size of West Virginia, with a population

well in excess of 200,000, with typically no more than 30 officers available at any one time to respond to emergencies. Navajo officers often perform alone and without radio communication for backup.

D. Public Safety – A Government's First Obligation. The first thing that a people demand of their government is that it act to ensure the public safety. A crime-free and safe environment is essential to the vitality of any community. It is also critical to the development of an economic base, including attracting investment as well as retaining skilled workers who have the option of living where they please. In his 2005 State of the Union Address, President Bush proclaimed, "Our third responsibility to future generations is to leave them an America that is safe from danger, and protected by peace. We will pass along to our children all the freedoms we enjoy -- and chief among them is freedom from fear." We agree with the President, but because of the Federal government's failure to provide adequate resources for public safety on the Navajo Reservation, too many Navajo families do not enjoy freedom from fear.

The Navajo Nation government takes its responsibility to address the public safety needs of its citizenry very seriously. Unfortunately, we face great challenges that principally arise out of the poor economic conditions on the Navajo Nation. Some of these conditions can be directly traced to actions by the Federal government in violation of its trust responsibility to the Navajo Nation. Many of them can be corrected if the Federal government fully lived up to its trust responsibility, which includes funding a basic level of public safety services within our reservation boundaries.

The Navajo Nation Public Safety Division is responsible for an area the size of West Virginia, with a resident population of approximately 200,000 and, with tourism, a transient population of hundreds of thousands of non-Indians every year. The Navajo Nation polices this area with a small force of officers (see discussion below). In addition to responding to community incidents, the Navajo police force also provides protection to major dams and power plants, as well as hundreds of miles of interstate highways, high voltage transmission lines and gas pipelines. On 9/11, Navajo police officers moved quickly to secure as many of these high-value facilities as our limited resources would allow.

E. The High Incidence of Violent Crime in Indian Country. Although violent crime has declined throughout the United States in recent years, tragically there is no evidence of a decline in Indian Country. According to DOJ statistics, Native men and women are still more than twice as likely to be a victim of a violent crime - whether you are talking about child abuse, sexual assault, homicide, or assault - than any other racial or ethnic group. Native youth are significantly more likely to be the victims of rapes, assaults, shootings, beatings and related crimes than their counterparts. Nearly a third of all American Indian and Alaska Native women will be the victim of sexual assault in their lifetime, the highest rate of any racial or ethnic group. It takes no imagination whatsoever to understand the scarring impact of these high crime rates not only on the victims, but also on their communities. In the Native way, when one person is harmed, everyone is harmed. Adequate funding for the provision of basic public safety services is an essential part of any strategy to reduce the Indian Country crime rate and provide the same safe and secure environment for Native peoples that is enjoyed by most other Americans.

The US Attorney's Office in Flagstaff estimates that violent crime on the Navajo reservation is six times higher than the national average. Increased crime includes alcohol and drug abuse, domestic violence and child sexual abuse.

We cannot address domestic violence on Navajo because we cannot separate the abuser from the victim due to lack of detention facilities – and the abusers know that.

We cannot protect our children from sexual predators. Just in one community, there were 100 reported cases of child sexual abuse in one month. We cannot protect our families without somewhere to put the perpetrators threatening our communities.

Navajo Nation averages one officer for every 4,000 people, compared to the national average of three officers per 1,000 people.

Our officers often perform alone, without partners, and without radio communication for backup. In one incident I'd like to share, an officer responded to a call and found a man beating his wife and family. The wife did not want him arrested. She knew that he would not be detained long due to the lack of facilities, and feared that he would return even more violent. Because she did not want him arrested, she attacked the officer herself and tried to get his gun. The officer managed to get away, leaving the abuser with his family.

In another sad incident, a young boy was arrested for attacking his brother. After a short hour in jail, he was let out. A week later, he was arrested for attacking his sibling. He was again released after a short time in jail. He was later arrested for stabbing his mother.

Criminal incidents of recidivism such as that one are very high on the reservation all due to the factors I have described:

1. Criminals are allowed to return to their community without incarceration.

2. We cannot incarcerate criminals without putting them at significant physical and health risk.

3. In many instances, tribal court is just a revolving door for many criminals.

4. Criminals and their victims have a complete disregard for our criminal justice system. Communities across the reservation and neighboring towns are at risk. Public safety officers are at risk.

F. The Shocking State of Indian Detention Facilities. This past September, the DOJ Office of Inspector General published its study of Indian detention facilities entitled "Neither Safe Nor Secure – An Assessment of Indian Detention Facilities" (Report No. 2004-I-0056). The Inspector General's office was shocked by what it found:

> "Early in our assessment, it became abundantly clear that some facilities we visited were egregiously unsafe, unsanitary, and a hazard to both

> inmates and staff alike. BIA's detention program is riddled with problems and, in our opinion, is a national disgrace with many facilities having conditions comparable to those found in third-world countries. In short, our assessment found evidence of a continuing crisis of inaction, indifference, and mismanagement throughout the BIA detention program. BIA appears to have had a laissez-faire attitude about these horrific conditions at its detention facilities. Because many of the conditions were life-threatening, the Inspector General issued an Interim Report to the Secretary in April 2004 describing our most significant findings, and to provide an opportunity for her to take immediate and appropriate action."

The Inspector General's report was only the latest in a series of reports and testimony about the decrepit condition of Indian Country detention facilities. Although this report was focused on BIA facilities, the same troubling conditions are found at Navajo facilities.

In the late 1950's and early 1960's, the Navajo Nation constructed six (6) detention facilities. Of our many urgent public safety needs, our highest priority is to replace or fully renovate these out-of-date and dilapidated facilities. For example, the Tuba City detention facility suspended its operation in Winter 2004 due to crumbling ceilings and walls, exposed conduits and weakening foundations. In January of 2006, the facility caught fire due to an electrical short. Other facilities in Chinle and Shiprock are in roughly the same poor condition. Our remaining facilities at Kayenta, Crownpoint and Window Rock are only a few years away from joining Tuba City as facilities not fit to house animals, much less human beings. The BIA does not operate these facilities as the Navajo Nation, pursuant to the Indian Self Determination and Assistance Act, has contracted to carryout BIA law enforcement programs on the reservation. However, the same funding shortfalls that have led to problems in BIA-operated detention facilities have affected the Navajo Nation-operated detention facilities. Just to bring our detention facilities up to the national standard will require $63-70 million for Navajo.

G. Historic Funding Levels for Indian Country Public Safety Programs – A Quiet Crisis?
In July 2003, the U.S. Commission on Civil Rights released a detailed report on Federal funding and unmet needs in Indian Country entitled "A Quiet Crisis". The Commission engaged in a comprehensive analysis of Federal funding of Native programs across all departments, concluding that the Federal government was not meeting its trust obligation to Indian tribes. Among the report's many findings, was that "... per capita federal spending on Native Americans was higher than spending for the general population between 1975 and 1980. Between 1980 and 1985, however, Native American expenditures declined while those for the general population increased, until approximate equivalency. After 1985, per capita Native American and general population spending did not increase at the same rates, resulting in a wide gap."

The Commission found that "[p]erhaps one of the most urgent needs in Indian Country is access to basic law enforcement ...." The Commission noted that the level of police coverage in Indian Country is much lower than for other areas of the United States. For example, large cities such as New York, Washington, D.C. and Detroit provide between four and seven officers per thousand residents. In contrast, the Navajo Nation only provides one officer per four thousand

residents and these few officers are stretched thin covering an area many times the size of the largest urban areas in the United States. Notably, routine police patrolling is not possible at Navajo.

The Commission commented at length on the sporadic and minimal levels of funding for tribal courts, as well as on the substandard conditions at over-crowded tribal detention facilities, where funding also has been scarce. Despite some increases in funding between 1998 - 2003, the Commission noted a downward trend ever since. The Commission concluded: "Funding for criminal justice systems in Indian Country remains insufficient to meet the immediate needs of these communities, much less establish a framework for eventual self-sufficiency. The potential for even modest progress will be undone if funding cutbacks continue as they have in recent years."

H. Working Together the Crisis In Indian Country Public Safety Can be Addressed. In June 2004, I presented testimony before the Committee regarding Indian detention facilities and its impact on curbing criminal activity. In that statement, I remarked that:

> *Indian detention facilities construction success reaches as far as the willingness of the Bureau of Indian Affairs promotes detention facility parity in Indian country.*

Out of that historic hearing, the Committee approved the Indian Tribal Detention Facility Reform Act of 2004 (S. 2734, 108th Congress). The Committee's continued support, both through advancing legislation that addresses public safety concerns and through advocating for adequate funding to support Indian public safety services is critical and greatly appreciated by the Navajo Nation. This Committee has shown great leadership in starting the process of seriously addressing public safety issues in Indian Country. We urge your continued support and ask that you seek the highest possible funding for public safety in Indian Country.

Thank you for this opportunity to share the concerns of the Navajo Nation. Please do not hesitate to contact me if you have any questions or if we can be of any assistance. The Navajo Nation looks forward to working closely with the Committee to address public safety concerns in Indian Country.

DEPARTMENT OF EDUCATION

Statement by Darla Marburger
Deputy Assistant Secretary for Elementary and Secondary Education

before the

Senate Committee on Indian Affairs
on the Fiscal Year 2007 Budget for
Department of Education Programs Serving
American Indians and Alaska Natives

February 14, 2006

Mr. Chairman and Members of the Committee, on behalf of Secretary Spellings, thank you for this opportunity to appear before you to discuss our fiscal year 2007 budget request for Department of Education programs that address and serve the needs of American Indians and Alaska Natives.

My name is Darla Marburger, and I am Deputy Assistant Secretary for Policy in the Office of Elementary and Secondary Education. I am here with my colleagues, Cathie Carothers, the Acting Director of the Office of Indian Education, and Tom Corwin, the Director of the Division of Elementary, Secondary, and Vocational Analysis, Budget Service.

The Bush Administration is strongly committed to ensuring that federally and non-federally recognized American Indians and Alaska Natives benefit from national education reforms and receive every opportunity to achieve to high academic standards. Recent data suggest that our investments in Indian education are beginning to pay off. We know that more Indian students are pursuing postsecondary education than ever before; the number of Indian students enrolling in colleges and universities has more than doubled in the last two and a half decades. American Indian and Alaska Native

students scored higher than other minority groups on the 2003 and 2005 National Assessment of Educational Progress (NAEP) for 4th- and 8th-grade reading and mathematics. However, significant achievement gaps persist between the American Indian and Alaska Native student population and the general population. These students continue to be subject to significant risk factors that threaten their ability to improve their academic achievement and their general well-being, and continue to need support from Federal programs that address the specific educational needs of the population.

Overview

When President Bush signed the No Child Left Behind Act (NCLB) into law four years ago, our Nation embarked on a landmark effort to reform education and improve student achievement for all students. The President believed then, and believes now, that if we provide school systems with resources and the flexibility to direct them to where they are most needed, ensure that we have highly qualified teachers in our classrooms, set rigorous standards for students, and hold schools accountable for teaching, our children will learn and achievement gaps among students will decrease and eventually disappear.

Today, States and school districts are completing implementation of many of the ground-breaking changes NCLB requires of school systems. By the end of the current school year, 2005-06, States will have put in place assessments that test all students annually in grades 3 through 8, and once in high school, in reading and mathematics. The current school year is also the deadline for meeting the NCLB requirement that all teachers of the core academic subjects be highly qualified, and most States already

report that highly qualified teachers teach the great majority of their core academic classes.

These changes are producing results. The most recent NAEP shows that reading scores for 9-year-olds increased more over the last five years than in the previous two decades. In math, 9- and 13-year-old scores also reached all-time highs.

The President's fiscal year 2007 budget requests funds to build on the success of the NCLB Act by extending its principles and reforms to the high school level in order to strengthen high schools and ensure that all students, especially at-risk students, are academically prepared for the transition to postsecondary education and the workforce. The proposed $1.5 billion for a High School Reform program is one of three major initiatives contained in the Department of Education's 2007 budget request. Each of these initiatives would have important implications for the education of Indian students.

The Budget also requests for $380 million in new spending at the Department of Education for a second initiative, the President's American Competitiveness Initiative. The Department of Education elements of this initiative focus on improving elementary and secondary instruction in mathematics and science. Notwithstanding the academic improvement we have seen under No Child Left Behind, we know that we need to vastly improve K-12 mathematics and science education across the country. Students need a strong foundation in mathematics and science skills in order to compete in the 21st century economy, and the building of that foundation starts in the early grades. The Math Now for Elementary School Students and Math Now for Middle School Students programs would help elementary and middle school students obtain the knowledge they need to succeed in high school mathematics courses.

The Math Now for Elementary Students program, modeled after our existing Reading First program, would support efforts to implement proven practices in math instruction that focus on preparing K-7 students for the more rigorous courses they will encounter in middle and high school. The Math Now for Middle School Students program is based on the principles of the current Striving Readers program and would support research-based math interventions in middle schools.

Finally, the President's budget contains a request for $35 million in new funding for the Department of Education's components of a third initiative, the multi-agency National Security Language Initiative. This request would fund Department activities to increase significantly the number of American students learning the foreign languages that are critical for our national security and global competitiveness.

The 2007 budget request for the Department of Education supports the President's commitment to provide resources to help improve educational opportunities for all students. American Indian students will continue to benefit from implementation of the NCLB Act, as well as new initiatives to improve the quality of secondary, math, science, and foreign language education. Overall, Department programs would, under the FY 2007 budget, provide approximately $1 billion in direct support specifically for Indians and Alaska Natives. In addition, significant funds are provided to Indian students who receive services through broader Federal programs, such as ESEA Title I Grants to Local Educational Agencies and IDEA State Grants. The BIA would receive over $215 million of Department of Education funds to support Indian education programs operated by that agency. We work closely with the BIA on program implementation issues and to improve the quality of the services the agency provides to Indian students.

Indian Education Programs

The President's request for the Department's Indian Education programs for fiscal year 2007 is $118.7 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 $95.3 million for Indian Education formula grants to local educational agencies (LEAs). This program is the Department's principal 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 $198 for approximately 481,700 students, including nearly 48,000 students in Bureau of Indian Affairs (BIA) schools.

Special Programs for Indian Children

Our request for Special Programs for Indian Children is $19.4 million. These funds would be used for three activities.

Approximately $5.7 million would support an estimated 23 demonstration grants that focus on two types of activities. First, we would fund school readiness programs that provide age-appropriate educational programs and enhance the language skills of American Indian and Alaska Native 3- and 4-year-old children to prepare them for successful entry into school at the kindergarten level. Second, we would fund college-

preparatory programs for American Indian and Alaska Native secondary students that are designed to increase competency and skills in academic subjects, including mathematics and science, to enable these students to successfully go on to postsecondary education.

In addition, the 2007 request would provide over $13 million to continue two training efforts under our Professional Development program, the American Indian Teacher Corps and the American Indian Administrator Corps initiatives. Approximately $9.2 million of these funds would be used to support the American Indian Teacher Corps, which trains Indian individuals for teaching positions in schools with concentrations of Indian students. The 2007 request would also provide approximately $4.3 million for the Administrator Corps to train Indian individuals at the master's- degree level to become new school administrators in Indian communities. 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.

National Activities

We are requesting $4 million for research, evaluation, data collection, and technical assistance related to Indian education.

Fiscal year 2007 funds would be used to include a sufficient number of American Indian and Alaska Native students in the 2007 NAEP of 4th- and 8th-grade students in reading and mathematics. This project provides the Department with reliable, national-level data on Indian students' performance in reading and mathematics. Funds would also continue to support data collections initiated in earlier years, such as a special NAEP study designed to collect data on the educational experiences of American

Indian/Alaska Native students and the role of Indian culture in their education, and to promote ongoing program improvement for Indian Education Grants to LEAs and Special Programs.

High School Reform Program

The Administration is proposing a High School Reform program to support the development, implementation, and evaluation of targeted interventions that: (1) increase the achievement of high school students, particularly students at risk of failing to meet challenging State academic content standards; (2) eliminate gaps in achievement among students from different ethnic and racial groups and between disadvantaged students and their more advantaged peers; and (3) enable all high school students to graduate with the education, skills, and knowledge necessary to succeed in postsecondary education and in a demanding, high- technology economy. In 2007, the Administration is requesting $1.5 billion for this program. Of this amount, $535.5 million would be used for continuation grants for programs expiring under the Higher Education Act and $939.5 million would be available for State formula grants and national activities. Under the proposal, the Bureau of Indian Affairs (BIA) would receive 0.5 percent of the formula grant allocation, approximately $4.7 million in FY 2007.

Title I: Education for the Disadvantaged

Title I Grants to LEAs

Title I provides supplemental education funding to LEAs and schools, particularly those in high-poverty areas, to help the more than 16.5 million educationally disadvantaged students, including eligible 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.

The Department is requesting $12.7 billion for Title I Grants to LEAs in fiscal year 2007, the same amount as the 2006 appropriation and a 45 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 $88.6 million. These funds would serve almost 46,000 children in BIA schools, in addition to Indian children served in regular public schools.

School Improvement Grants

Our budget request would provide first-time funding for formula-based Title I School Improvement Grants, authorized under section 1003(g) of the ESEA. These funds would help ensure that States have sufficient resources to build their capacity to provide effective improvement support to LEAs and schools identified for improvement. Under this program, the BIA would receive a share of the School Improvement Grants funds equivalent to its share of national allocations for Title I Grants to LEAs, Migrant Education, and Neglected and Delinquent funds combined. The fiscal year 2007 request of $200 million would provide the BIA with approximately $1.4 million for school improvement activities.

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 the 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 receives 0.5 percent of the State Grants appropriation. Our 2007 budget request of $1 billion would provide approximately $5.2 million to BIA schools.

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 States 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. States and the BIA also use the funds to achieve the NCLB objective of ensuring that all teachers of the core academic subjects are highly qualified. Under the statute, the BIA receives a set-aside of 0.5 percent.

The Department's fiscal year 2007 request of $2.9 billion would provide the BIA with an allocation of $14.6 million.

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 Federal assistance to many LEAs that educate Indian children. The 2007 budget request of $1.1 billion would provide approximately $519 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 approximately $50 million would provide $20.5 million for services to almost 20,000 children with disabilities living on Indian lands.

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 the greater of 0.5 percent or $5 million for schools operated predominantly for American Indian, Alaska Native, and Native Hawaiian children. The 2007 budget request would include $5 million for these schools. In addition, English Language Acquisition State formula grant funds serve limited English proficient American Indian, Alaskan Native, and Native Hawaiian students 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. Under this program, the Department may

reserve up to 1 percent of the appropriation for grants to the Bureau of Indian Affairs and the Outlying Areas. The fiscal year 2007 request of $981.2 million would provide approximately $7.1 million to the BIA.

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 2007, the Administration is requesting $400 million for the formula grants portion of this program, $2 million of which would go to the BIA.

Alaska Native Education Equity

We are requesting $33.9 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 2007 budget request of $61.9 million includes almost $620,000 for the BIA to provide services to homeless children and youth to enable them to attend and excel in school.

Tribally Controlled Postsecondary Vocational and Technical Institutions

This program, currently authorized by the Carl D. Perkins Vocational and Technical Education Act and proposed for reauthorization under the Higher Education Act of 1965, provides competitive grants for the operation and improvement of certain tribally controlled postsecondary vocational and technical institutions. Funds provide continued and expanded educational opportunities and training for Indian students attending those institutions, along with basic institutional support of vocational and technical education programs. Under the budget request, the Department would provide $7.4 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 households. 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 $23.6 million for activities to strengthen TCCUs. Since fiscal year 2001, a portion of funds has supported construction and renovation activities, and the fiscal year 2007 budget request would provide approximately $8.3 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 2007 budget request includes $9.2 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. Under the budget request of $10.7 billion, the Department would provide approximately $87 million to the BIA, an increase of approximately $800,000, to help serve approximately 8,200 Indian students. The BIA would use 80 percent of those funds for the education of children 5 through 21 years old and distribute 20 percent to tribes and tribal organizations for the education of children 3 through 5 years old.

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 2007 budget request of $436.4 million, the BIA would receive approximately $5.4 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 2007, the Department requests approximately $2.8 billion for the VR State Grants program. The amount set aside for grants to Indian tribes would be approximately $34.4 million, approximately $6 million more than the minimum amount required by law to be reserved for this purpose, and would serve approximately 6,100 American Indians with disabilities.

Program Eliminations

The 2007 request also continues our policy of proposing to eliminate or consolidate funding for programs, including some that have set-asides for Native Americans, that have achieved their original purpose, that duplicate other programs, that may be carried out with flexible State formula grant funds, that are ineffective, or that involve activities that are better or more appropriately supported through State, local, or private resources. Programs for which the Department is not requesting funding, and for which there is a set-aside for Indian programs or for the BIA, include Even Start, Educational Technology State Grants, Safe and Drug-Free Schools and Communities State Grants, and Vocational Education State Grants.

Program Performance

Our programs can work even more effectively than they do today. We expect to be held accountable for spending the taxpayers' money more efficiently and effectively every year. To assist you, the Administration has launched ExpectMore.gov, a website that provides candid information about programs that are successful and programs that fall short, and, in both situations, what agencies are doing to improve their performance next year. I encourage the members of this Committee and others interested in our programs to visit ExpectMore.gov, see how we are doing, and hold us accountable for improving.

Conclusion

The 2007 budget request for the Department of Education programs serving American Indians and Alaska Natives 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 Elementary and Secondary Education

Biographical Sketch

NAME	:	Darla A. Marburger
POSITION	:	Deputy Assistant Secretary for Policy
EXPERIENCE		
2000 – 2002	:	Senior Policy Analyst Texas Senate Education Committee
1998 – 1999		Policy Analyst Texas Senate Education Committee
1997		Assistant Policy Analyst Texas Senate Education Committee
1996 – 1997		Program Coordinator Graduate Assistantship The Texas A&M System Agriculture Program
1995		Administrative Technician Texas Employment Commission
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Testimony to the Senate Committee on Indian Affairs
Hearing held on February 14, 2006, in Washington, DC on the
President's Fiscal Year 2007 Budget Request for Indian Programs

The National Association of Tribal Historic Preservation Officers (NATHPO) is pleased to submit testimony for the record to the Senate Committee on Indian Affairs on the President's Fiscal Year 2007 Budget Request for Indian Programs.

The National Association of Tribal Historic Preservation Officers

NATHPO is a national, professional association of tribal government officials who are committed to preserving, rejuvenating, and improving the status of tribal cultures and practices. Our mission is to support Native languages, arts, dances, music, oral traditions, tribal museums and cultural centers, and tribal libraries. NATHPO assists tribal communities protect their cultural properties, whether they are naturally occurring in the landscape or are manmade structures. In addition to members who serve as the Tribal Historic Preservation Officer (THPO) for their respective tribe, our membership includes many other tribal government officials who support our mission and goals. NATHPO provides technical assistance, training, timely information, and research, and convenes a national meeting of tribal representatives, preservation experts, and federal agency officials.

Priority Areas
NATHPO is submitting comments in support of three priority areas (suggested dollar amount in parenthesis):

1. Department of the Interior, National Park Service, **Historic Preservation Fund** ($12 million)
2. Department of the Interior, National Park Service, **National NAGPRA Program-Grants** ($5 million)
3. Institute of Museum and Library Services, **Native American/Native Hawaiian Museum Services** ($5 million)

1. HISTORIC PRESERVATION FUND ($12 MILLION)
The 1992 amendments to the National Historic Preservation Act, P.L. 102-575 (16 U.S.C. § 470) ("the Act"), enhanced the role of Indian Tribes in the national preservation program authorized by the Act and provided for greater protection of places of cultural significance to Indians and Native Hawaiian organizations. Toward that end, the 1992 amendments authorized the creation of a Tribal Historic Preservation Officer (THPO) program funded through the National Park Service, Historic Preservation Fund ("Tribal"[1] line item).

The Tribal Historic Preservation Officers (THPOs) have the responsibilities of State Historic Preservation Officers (SHPOs) on tribal lands and advise and work with state and federal agencies on the management of tribal historic properties, as authorized under Section 101(d)(2) of the Act. THPOs also preserve and rejuvenate the unique cultural traditions and practices of their tribal communities. THPOs work with a variety of federal agencies to collaborate on innovative programs of public land management, as well as playing other important roles in their communities and regions by supporting

[1] It is important to note that the "Tribal" line item under the Historic Preservation Fund includes both THPO funding and funding for a competitive tribal grant program. The entire "Tribal" line item does not go to THPOs, and NPS determines how much THPOs and the competitive grant program will get each year.

tribal initiatives to create jobs in Indian country through their support of heritage tourism initiatives and tribal museum development.

As a policy matter, the establishment of THPOs has been an overwhelming success, allowing THPOs to work closely with federal agencies to assist them in complying with the National Historic Preservation Act on Indian lands, and at the same time allowing Tribes who have THPOs to develop the expertise to efficiently protect cultural and sacred resources that are vitally important to their identity as Native people. An efficient and well-working THPO program has been shown to be of great benefit to federal agencies.

Why do THPOs need increased appropriations?

Unfortunately, vitally important and successful THPO programs are severely threatened by lack of adequate and sustainable funding. THPOs received their first federal appropriations in FY1996. At that time, only 12 Tribes had established a THPO, with an average award of almost $80,000. By FY2006, 58 Tribes had established THPOs and the average award was down to approximately $57,000 because appropriations increased only about 33% percent from inception of the THPO program despite the fact that new THPOs were being added each year, quadrupling the size of the program. New THPOs further the purposes of the Act, but also dilute the pool of available funds for all THPOs. As funding for the program shrinks, THPOs are less able to assist federal agencies with their preservation compliance responsibilities and perform other important THPO duties and functions.

How much funding do THPOs need in Fiscal Year 2007?

THPOs are requesting a total of $12 million for the "Tribal" line item under the HPF in FY2007, an $8 million increase over the $4 million appropriated by Congress in FY2006. In FY2006, there are 58 THPOs who are sharing $3.24 million in funding. Despite a $795,000 increase in appropriations from Congress in FY2006 over the President's request, the average grant award to THPOs increased by only about $6,000. THPOs are in a critical stage at this point, having endured extremely little federal support since their establishment. In order to support the THPOs at a level even somewhat comparable to the State Historic Preservation Offices, THPOs are requesting an $8 million increase over last year's appropriation to restore equity to the funding levels.

By comparison, for example, State Historic Preservation Officers received approximately a $385,000 base level of support in FY2006. Further exacerbating the inequality is that the number of participating states and territories is static, unlike the growth and popularity of the THPO programs among Indian tribes which increases annually. In FY2001, the high water mark for Historic Preservation Fund funding since the inception of the program, SHPO average funding was $850,209, while the average THPO award was $154,815. In terms of comparison the Navajo Nation is slightly larger than the State of West Virginia, yet in FY2001 the West Virginia State Historic Preservation Office's HPF grant was over $711,096. Navajo Nation received $266,035. This is despite the fact that SHPOs and THPOs have similar obligations under the Act.

Given the Administration's FY2007 level funding request and the expected increase in the number of THPOs in FY2007 to about 65 total, the budget request represents the lowest funding per THPO in the program's history. Both the Administration and the National Association of THPOs expect the THPO program to continue growing, but if funding is not increased annually to support new

partner Tribes, each Tribe must absorb a funding cut. The National Association of THPOs has determined that Tribes and their supporters contribute at a minimum three (3) dollars for every dollar of federal funding that they receive for historic preservation purposes. That match still does not come close to meeting the funding needs to operate a THPO program.

THPO programs have enhanced historic preservation nationally and the success of these programs benefits both the federal government and individual Tribal members. These programs incorporate unique cultural values into contemporary preservation mandates and efforts. In the past several years, it is also fulfilling the role of promoting cultural and heritage tourism, thus creating jobs in Tribal communities. Cultural interpretation from Tribal perspectives is vital to our Nation's understanding of Native cultures and to the identity and success of Native Americans today.

2. NATIONAL PARK SERVICE, NATIONAL NAGPRA PROGRAM ($5 MILLION)

The Native American Graves Protection and Repatriation Act of 1990 (NAGPRA) provides for the disposition of Native American cultural items — human remains, funerary objects, sacred objects, and objects of cultural patrimony — removed from Federal or tribal lands to lineal descendants of Indian tribes or Native Hawaiian organizations based on geographic or cultural affiliation. NAGPRA also prohibits trafficking of Native American cultural items and provides for the repatriation of Native American cultural items in museum and Federal agency collections to lineal descendants or culturally affiliated Indian tribes or Native Hawaiian organizations. The Secretary of the Interior has established and maintains the NAGPRA Review Committee to monitor and review the summary, inventory, and repatriation requirements of the Act. The Review Committee operates in accordance with the Federal Advisory Committee Act and a charter issued by the Secretary of the Interior.

Per the *NAGPRA Review Committee's Report to Congress 2002-2004*, the National NAGPRA Program is concerned about the number of grants they are able to provide to Indian tribes, Native Hawaiian organizations, and museums in order to fulfill the Act as intended. In fact, the number of grants has a pattern of being reduced and diverted to cover administrative costs. In FY2005, the Department withdrew $680,000 from the NAGPRA Grant Program (even though the total available for NAGPRA grants in FY2005 was only $2,475,660), as part of an estimated $3 million that was owed by the US Government to the plaintiffs in the "Kennewick Man" litigation. The balance of the funds paid to the scientist plaintiffs was about $820,000 from the Bureau of Indian Affairs and $1.5 million for the Department of Justice. The Review Committee is also concerned that the National NAGPRA Program has failed to take steps to ensure that museums and Federal agencies have fully complied with provisions of the Act. Many of the pending submissions of summaries and inventories have never been fully evaluated.

Separate from the costs of administration is the National NAGPRA Program competitive grant program that supports Tribes, Native Hawaiian organizations, and museums in their efforts to document, consult, travel, and transfer remains and cultural items per the Act. The NAGPRA Program awarded grants in FY2002, FY2003, and FY2004 totaled $2,245,820, $2,201,000, and $2,182,000 respectively -- only half of what the applicants requested each year. With the advent of the culturally unidentifiable database placing information in the inventories on-line and accessible to tribes, it is anticipated that there will be a resurgence of consultation activity on a large scale, putting additional pressure on the grants program.

NATHPO supports the NAGPRA Review Committee's recommendation that at least **$5 million** in grants by made available in FY2007 to Indian tribes, Native Hawaiian organizations, and museums.

3. NATIVE AMERICAN/NATIVE HAWAIIAN MUSEUM SERVICES ($5 MILLION)

In September 2003, the U.S. Congress authorized the Institute of Museum and Library Services (IMLS) to create a Native American/Native Hawaiian Museum Services program that is calculated as a 1.75% set-aside of the total Museum funds IMLS receives per fiscal year. IMLS is the primary source of federal funds for the nation's museums and libaries. Prior to the set-aside provision, American Indians, Alaska Natives, and Native Hawaiians had no specific opportunity to support their museums and cultural centers in their local communities. The current authorization runs from FY2003 through Fiscal Year 2008.

Funding History

In FY2005, IMLS awarded the first round of grants to 45 Native American and Native Hawaiian communities for a total of $830,435. The range of grant awards was defined by the IMLS to be in the range of $5,000 to $20,000. In the current cycle of funding (FY2006), IMLS is offering about $900,000, with the range of grants to be $5,000 to $50,000. The President's request in FY2007 essentially level-funds the program even though the individual tribal grants are very small and the expectation that more than 45 Native communities will be seeking IMLS support as interest in the program grows.

NATHPO would like to see this unique and important program continue to grow, even though the current funding and set-aside formula does not come close to meeting the needs in Indian country. Additional resources are needed for the support and development of tribal museums and cultural centers that serve Native communities by:

- serving as a public, educational institution for both Natives and non-Natives
- being a repository for cultural materials or donated items
- providing important social services and meeting places for each tribal community
- providing public information by and for tribal governments
- serving as an economic development initiative and an opportunity for tribal tourism

Conclusion

Within the past 15 years, three important federal laws finally acknowledge and support American Indians, Alaska Natives, and Native Hawaiians in the telling of their own stories to all Americans, as well as the means to bring their ancestors and sacred items back to their own communities. The THPO program was created in the 1992 amendments to the National Historic Preservation Act of 1966. NAGPRA was signed into law in November 16, 1990. And in 2003, the U.S. Congress directed the IMLS to provide a set-aside specifically for tribal museums and cultural center. Prior to the enactment of these provisions, Native people did not receive the same level of support that others have been receiving for decades.

Participation in national preservation programs is a relatively recent development for Native Americans, but "historic preservation" is not. Native people have been protecting their cultural and historic places through traditional cultural means and the exercise of their sovereign powers from time immemorial.

Prepared Statement of the National American Indian Housing Council

Presented by
Cheryl Parish, Board Member

Senate Committee on Indian Affairs

Oversight Hearing on the President's Fiscal Year 2007 Budget Request for Indian Programs

February 14, 2006

Good afternoon Chairman McCain, Vice Chairman Dorgan, and members of the Committee. My name is Cheryl Parish and I am pleased to appear before you today as the Secretary of the National American Indian Housing Council (NAIHC). On behalf of the NAIHC, its membership, and its Board of Directors, I want to thank you for this opportunity to address you today on the President's Budget Request for Fiscal Year 2007 as it relates to Indian housing and housing-related community development. First though, I want to express our gratitude to you and your capable staff for this Committee's long-standing support for our efforts to provide safe, decent, and affordable housing for Native people.

Mr. Chairman, this Committee does not need to be reminded of the dire economic and social conditions on Indian reservations and in Native communities in Alaska and Hawaii. But it seems that others in Congress and elsewhere do not have a firm grasp of the situation and accordingly I will reiterate that Native Americans are three times more likely to live in overcrowded housing than other Americans. Native Americans are more likely to lack basic sewage and water systems, and more likely to lack telephone lines and electricity than other Americans. I challenge our friends in the press who have a never-ending appetite to write about Indian gaming and "rich tribes" to visit the poor, rural tribes of the Great Plains, the vast Navajo Nation, and the remote Native villages in bush Alaska to see that in 2006, poverty still has an Indian face.

THE PRESIDENT'S BUDGET REQUEST FOR FY2007

The FY2007 appropriations cycle began last Tuesday when the President sent a $2.77 trillion Budget Request to the Congress. As we all know, the costs of the war on terror and homeland security have put enormous strain on the Federal budget. As a result, funding for the Native American Housing Block Grant ("NAHBG") --- the core Federal housing program for Native people --- has witnessed a steady erosion of support for the last 6 fiscal years. For instance, the President's FY2006 Budget Request proposed the lowest amount of funding for Indian housing programs since the enactment of the NAHASDA in 1996. Funding for basic housing services would have been reduced by

more than $100 million, a 15% reduction Indian tribes could ill afford. It was a situation that we were pleased to see this Committee help reverse in the final FY2006 appropriation.

With the FY2007 Budget Request, the President seeks $625.7 million for the NAHBG. In addition, and unlike the FY2006 Budget Request, the President proposes to preserve the Indian Community Development Block Grant ("ICDBG") in the larger Community Development Fund and seeks to fund it with $57.4 million. While the President's request for the NAHBG largely matches the appropriated levels for FY2006, reductions in purchasing power will result with the high cost of energy pushing the inflation rate to 3.4%. Higher prices for building materials, labor, and other inputs make the construction industry particularly vulnerable to inflation. Taken together, level funding (or a funding level that is slightly less than the previous year's amounts) coupled with inflation and a strong and growing demand for housing in the Native community means that fewer homes will be built using Federal funds.

The bottom line, Mr. Chairman, is that while we are pleased that the FY2007 Budget Request does not include the kind of cuts proposed in last year's Budget Request, we remain very concerned with the funding level and the ability of Indian housing authorities and tribally-designated housing entities to make meaningful gains in home construction for their members.

Nonetheless, I would be doing the Committee as well as the Indian people I represent a disservice if I did not relay to you my deep and continuing frustration with the level of Federal support for the housing programs I have come to talk about today. While I am all for building schools and hospitals and homes in Iraq and Afghanistan, I believe the President and the Congress should consider our needs. After all, Indian tribes are owed the solemn obligations of the U.S. Government and these promises should not yield to our overseas commitments.

We understand fiscal year 2007 will again see one of the tightest budgets in history, and Congress will have to take extra consideration when weighing all domestic programs. But we ask that when making these funding decisions, Congress keep in mind that inflation has steadily risen over the past four years, the cost of construction continues to increase, and the Indian population is growing.

INDIAN HOUSING AND THE NATIVE AMERICAN HOUSING BLOCK GRANT

Since the enactment of the Native American Housing Assistance and Self-Determination Act ("NAHASDA") in 1996, this Committee has continually shown unwavering support for tribal housing programs and the people they serve. The Committee has shepherded 4 sets of amendments and 1 reauthorization through the Congress since 1998. Your efforts have strengthened the NAHASDA and improved the delivery of housing to Native people. Money is not the answer to all problems, Mr. Chairman, but building housing and related infrastructure is one area that is dependent on ample funding.

Native America is a diverse place: because of its varied cultures, economies and geographies, the housing needs in these communities are extensive and varied. Basic infrastructure, low-rent housing, homeownership and housing counseling services are all essential. The NAHASDA is grounded in Indian self determination and tribal self governance and, accordingly, the NAHBG allows an appropriate degree of flexibility to supply housing as local conditions demand and in a way designed by the tribes themselves. For example, my housing authority recently completed a desperately needed elder center through a combination of NAHASDA funds, ICDBG funds, and Tribal funds, a center that retains our cultural knowledge, cultural history, and cultural identity. A recent Harvard University study has shown, tribes have accomplished much with little resources, due in large part to self-determination. According to the *American Indians on Reservations: A Databook of Socioeconomic Change Between the 1990 and 2000 Censuses*, housing overcrowding decreased during the past decade, particularly in areas without gaming, and the percentage of Native people living in homes without plumbing increased in gaming and non-gaming areas. The report went on to suggest that "[s]elf-rule to Tribes can bring, and has brought, improvements in program efficiency, enterprise competency, and socioeconomic conditions".

Like the demographics of the developing nations of the world, the Native population is young and growing at a fast rate. Younger populations have strong demands for health care, education, and housing. To meet the current housing and infrastructure demands, the NAIHC estimates that at least $1.1 billion *per year* in funding is needed for the NAHBG. A reasonable start for FY2007 would be $748 million and the Budget Request proposes $625.7 million, a one-year funding gap of $123 million.

In addition to the funding levels, the NAIHC is alarmed that language changing the housing funding allocation formula is included in the FY2007 Budget Request. The language was included --- without tribal consultation and over the strong objection of the NAIHC --- in the final FY2006 appropriations. This language deals with the "need" for housing funding as calculated by the Department of Housing and Urban Development ("HUD") and requires an interpretation by the HUD of the responses of tribal members to the 2000 Decennial Census in calculating the tribes' relative "need" for housing assistance. Because changes to the funding formula necessarily implicate the statutory language of the NAHASDA and therefore this Committee's jurisdiction, the NAIHC has consistently taken the position that the matter is properly one for the authorizing committees of the Congress, the tribes, and the HUD. The NAIHC believes that the integrity of the legislative process is at stake, urges the Committee to wrest control of this matter from the appropriators, and pledges our support for discussions of these matters within this Committee and its sister Committees.

INCREASING INDIAN HOMEOWNERSHIP AND MORTGAGE FINANCING

Mr. Chairman, I want to stress that the NAIHC is not solely interested in federal grants Indian homes. We see a future in providing homes for ourselves in the same manner that all citizens of this country help themselves purchase a home through the use of mortgage financing. Programs such as Title VI, which under NAHASDA allows a Tribe or tribal

housing authority to leverage their block grant with a 95% federal government guarantee, and section 184, a program designed to assist Native people in achieving homeownership with a 100% federal government guarantee, are crucial in assisting Tribes and Indian people achieve the American dream of owning one's own home. Indian people do not want handouts; we want opportunity and responsibility that accompanies such opportunity. NAIHC is encouraged to see that the President has remained committed to both of these loan programs through level funding of the Title VI program and by a tripling of the Section 184 funds. The White Mountain Apache Housing Authority used a creative financing plan to develop over 350 new units in less than five years with complete infrastructure and fire retardation through the use of the Title VI program to leverage Section 184 loans. Under traditional funding programs the Tribe's project known as "Apache Dawn" would not exist. Using only the NAHBG the White Mountain Apache Housing Authority would have only produced roughly 40 homes in that same time window. Again, when people own homes they own a future, homes provide stability for a family, shelter for educating our children, and collateral for our tribal people.

COMMUNITY DEVELOPMENT AND THE INDIAN CDBG

The Indian Community Development Block Grant ("ICDBG") program is an important tool for the tribes in developing physical infrastructure and related economic opportunities. A competitive grant program, it has different goals and functions than NAHASDA, which is allocated according to a formula and addresses basic housing development needs for the tribes. NAIHC believes that both to develop effective housing strategies and for the economic development needed to support homeownership and job creation, the ICDBG should be funded at least at the inflationary adjusted level of $77 million and be kept as a separate account.

TECHNICAL ASSISTANCE

The President has again proposed reducing technical assistance funding to implement NAHASDA in FY 2007 by eliminating both the NAHBG set-aside and the ICDBG set-aside for the NAIHC. The NAIHC's technical assistance programs are integral to successful Indian housing programs. The success of these programs is dependent not only on the monies available for the programs, but also on tribal capacity to utilize those dollars and to leverage them effectively and efficiently. For many years Congress placed faith in NAIHC to provide technical assistance and training to all tribes, not just NAIHC members. 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. In fact, the United South and Eastern Tribes tribal leaders just last week approved a resolution stipulating NAIHC technical assistance and training as the preferred provider of assistance to their tribes. Additionally, a study conducted in early 2005 of NAIHC members found overwhelming support for the quality of training and technical assistance provided by the NAIHC.

Listed below are major items funded by the NAHBG and ICDBG set-asides in 2005:

Technical Assistance. In 2005, NAIHC made 246 site visits to tribes, compared to 206 such visits in 2004. Additionally, the NAIHC responded to more than 235 phone calls and emails requesting assistance.

Training. In 2005, the NAIHC offered 38 free training sessions in subject matter areas relevant to running successful Indian housing programs. A total of 2,186 persons attended these sessions, a dramatic increase from the 654 attending training in 2004.

The NAIHC also offers cutting-edge training programs. There is a very strong demand for technical assistance and training on the methamphetamine problem plaguing tribal housing programs, suggesting that this is one of the greatest challenges to tribes in the nation. Between April and December 2005, the NAIHC conducted 32 methamphetamine seminars with 1900 people in attendance. Feedback from those tribes and housing programs hosting these seminars has been overwhelmingly positive. There is no sign of demand for this program slackening; for the first three months of 2006, we have scheduled an additional 15 seminars. The NAIHC has added a full-time staff expert to address this problem and expects to increase our offerings.

The NAIHC has also expanded our homebuyer education program (***Pathways Home: A Native Homeownership Guide***). Indian housing staff who complete the course become certified homebuyer instructors who then assist other Native families along the path to homeownership. In 2005, a total of 159 students attended 10 training sessions; follow-up technical assistance was provided as requested. Additionally, the NAIHC hosted two "**Planning for Homeownership Projects**" seminars in 2005, with a combined attendance of nearly 200; provided 10 mortgage training sessions at our Annual Legal Symposium, with attendance at each session ranging from 50 to 70 people; hosted 15 mortgage training panels at the Annual Convention, with approximately 600 total attendees. The success of these programs can be measured by loan activity. HUD's Section 184 guaranteed loan program saw 619 loans worth over $62 million guaranteed in 2004 and 634 loans worth over $77 million guaranteed in 2005; USDA's 502 direct loans and guaranteed loans saw 581 loans worth $52.1 million in 2004 and $48.7 million in 2005. Clearly, the NAIHC's homeownership training programs are having beneficial impact.

Scholarships. In 2005, the NAIHC awarded 751 scholarships to individuals from 220 different tribes, totaling over $807,000, to attend NAHASDA-related training opportunities offered by NAIHC and HUD's Office of Native American Programs (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 and tribally designated housing entities (TDHEs), all tribes and TDHEs are eligible for some level of scholarship assistance.

Research. The NAIHC conducts at least one major research project annually to fully examine issues impacting Indian housing and to bring those findings forward to

policymakers and the public. In 2005, the research focused on an evaluation of NAHASDA and its accompanying regulations from a tribal perspective. The intent is to use the findings to recommend improvements to NAHASDA upon its reauthorization in 2007, so that both the statute and its regulations better advance Indian housing programs. Prior research has focused on Elder housing; Infrastructure; and Economic Development, among others, all topics pertinent to the advancement of Indian housing. The Infrastructure study led to the creation of a task group including multiple federal agencies and resulted in a MOU currently in the signature phase among the agencies to improve cooperation and coordination in the development of Indian Country infrastructure.

Communication. The NAIHC publishes a bimonthly newspaper, a biweekly newsletter and also maintains an active and informative website to communicate information on relevant Indian housing issues. Additionally, the website provides a funding resource database that tribes/TDHEs may use to identify and access additional sources of funding.

Other. The NAIHC develops new training based on tribally-identified need and creates new products/offerings (policies, videos, etc) for tribal/TDHE use. NAIHC is currently developing on online Technical Resource Library that will be a one-stop reference source for Indian housing related materials, including periodicals, publications, videotapes, statutes, regulations, policies, etc. New information will be entered into the system on an ongoing basis.

Despite these activities and more, the FY2007 Budget Request proposes that technical assistance provided by the NAIHC be zeroed out. Tribal capacity will improve only when there is training and technical assistance provided. To make this block grant program work efficiently, recipients must have access to assistance. The NAIHC is able to show precisely how it has used its federal funding for the betterment of tribal housing programs. The NAIHC believes its track record of success and promise of assisting tribes in the future warrants funding of $5 million in FY2007 for technical assistance, but only if the NAHASDA and ICDBG programs are fully funded.

CONCLUSION

Mr. Chairman, in closing, the NAIHC understands that our great nation will always face times of danger and uncertainty and that the temptation is to downplay the needs of Native people when the budget cycles begin. The NAIHC urges you to not forget the desperate housing conditions most Native people endure day after day.

I would again like to thank you Mr. Chairman and Vice Chairman Dorgan for your long-standing support for Indian housing programs and we look forward to working with you in the coming congressional session.

I would be 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 organization 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 50 F Street, NE, Suite 3300, Washington, DC 20001; phone: (202) 789-1754, fax: (202) 789-1758; http://www.naihc.net.

Department of Justice

STATEMENT

OF

REGINA B. SCHOFIELD
ASSISTANT ATTORNEY GENERAL
OFFICE OF JUSTICE PROGRAMS

BEFORE THE

COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

CONCERNING

THE DEPARTMENT OF JUSTICE'S FISCAL YEAR 2007 BUDGET
FOR INDIAN PROGRAMS

PRESENTED ON

FEBRUARY 14, 2006

Chairman McCain, Vice-Chairman Dorgan, and Members of the Committee: The Department of Justice appreciates the opportunity to testify before the Committee regarding the Department's proposed Fiscal Year 2007 budget priorities for Indian country. As the Committee is aware, and as we at the Justice Department know as well, the needs of Indian tribal governments in combating crime and violence continue to be great. 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.

My name is Regina B. Schofield, and I am the Assistant Attorney General for the Office of Justice Programs (OJP). Before I became Assistant Attorney General, I was head of the Office of Intergovernmental Affairs at the Department of Health and Human Services (HHS). There, I was closely involved in helping to improve the government-to-government relationship between tribes and the federal government. One of my proudest accomplishments at HHS was the development of the Tribal Consultation Policy that is now in effect. That policy expanded communication between tribes and HHS, and helped to streamline the process of soliciting feedback from tribal leaders on HHS policies and issues. I believe that HHS is more responsive to tribal needs as a result. My appointment as OJP Assistant Attorney General has given me a new opportunity to help strengthen the relationship between tribes and the federal government. It's an opportunity that I am privileged to have, because OJP plays a critical role in combating crime in Indian country.

OJP, the Department of Justice's Office on Violence Against Women (OVW), and

the Office of Community Oriented Policing Services (COPS) continue to be the Department's primary resources for funding and other assistance in Indian country. Through these offices, 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, OVW, and COPS continue their specific support to federally recognized Indian tribes and Alaskan Native 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.

One of my primary goals at OJP is strengthening communication with tribes. Too often tribal government officials, law enforcement and, others who work on criminal justice issues find it difficult to locate information about grants, training, and other types of assistance that may be available to them. I am pleased to announce that DOJ will soon be unveiling a new Web site created specifically for Indian country. The Web site will feature information on law enforcement, corrections, crime victim issues, juvenile justice, and civil rights. It will also provide information on grants, training, technical assistance

and conferences that can be of help to tribal communities. We would welcome the opportunity to demonstrate the Web site to the Committee once it's fully operational.

The new Web site is one of many areas in which DOJ is reaching out to tribal communities. I recently established a Justice Programs Council on Native American Affairs. The purpose of this council is to coordinate OJP's efforts on behalf of tribes and to serve as a liaison with other Department of Justice components on tribal issues. We want to find out how we can better serve tribal communities, how we can get information to them more quickly, how we can provide them with better training, and how we can make sure our funding resources respond to their needs.

One of the many challenges that federally recognized Indian tribes and Alaskan Native Villages and Corporations face is collecting reliable data on arrests, victimizations, and other criminal justice-related issues that can inform tribal policymakers. The Department has made it a priority to build the capacity of tribes to collect this critical data, realizing that the infrastructure for what can be a costly process is often lacking. With that in mind, our Bureau of Justice Statistics (BJS) launched the Tribal Criminal History Record Improvement Program (T-CHRIP) in Fiscal Year 2004. Since then we have awarded nearly $1.5 million to nine grantees. Many of these tribes have used T-CHRIP funds to purchase electronic fingerprinting equipment and train law enforcement personnel how to use it. T-CHRIP funds have also been used to improve electronic information sharing both on and off the reservations. In addition, grantees are automating DWI/DUI records, domestic violence protection orders, and ink/manual fingerprint cards.

We have funded and will continue to fund T-CHRIP out of the larger National Criminal History Improvement Program (NCHIP), which is now a part of the

Department's Project Safe Neighborhoods initiative. For Fiscal Year 2007, the President has requested approximately $39 million for NCHIP.

This April the Department will convene the 2006 Tribal Crime Data and Information Sharing Training in Albuquerque, New Mexico. The training will provide valuable information on integrating tribal criminal justice data with state and federal information systems and on how to better use existing national criminal justice statistics. The training will also cover available resources to help tribes take advantage of new information sharing technology.

In December 2005, BJS released the *Census of Tribal Justice Agencies in Indian Country, 2002*, which includes data from 314 tribes. This is the first publication that identifies the range of tribal justice agencies, the services they provide, and the types of information systems they maintain.

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.

The Department has also maintained a commitment to help tribes reduce substance abuse, which continues to be a major problem for many Native Americans. Our Bureau of Justice Assistance (BJA) and Office of Juvenile Justice and Delinquency Prevention (OJJDP) provide continued assistance to Indian communities under the 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 are included as Drug Court grantees. In Fiscal Year 2005, BJA and OJJDP awarded six Drug Court grants totaling nearly $2.5 million to tribes and tribal organizations. For Fiscal Year 2006, the Department received $9.9 million for the overall Drug Courts Program, but for Fiscal Year 2007 we have requested $69.2 million because the Administration considers this a solid investment in breaking the cycle of drug abuse and crime.

As you may be aware, the Department is again requesting that several tribal grant programs, including the Indian Alcohol and Substance Abuse Program, the Indian Country Prison Grants Program, and the Tribal Courts Program, be consolidated into a single tribal law enforcement grant program. This will enhance tribal communities' flexibility to address their unique law enforcement needs. For Fiscal Year 2007 we have requested $31.1 million for this new competitive program, which would be administered by our Office of Community Oriented Policing Services in consultation with OJP. Grant funding could be used to hire tribal law enforcement, prosecutorial, or judicial officers. Tribes will also be able to use these funds to upgrade equipment and technology for law enforcement, prosecutorial, or judicial operations.

Another Department priority is reducing juvenile crime in Indian country. Since 1992, the Department has supported the Boys and Girls Clubs of America's efforts to develop and implement crime prevention programs among local youth, law enforcement, and community agencies. Together we have served nearly 100,000 Native American youth in 77 tribal, Native Hawaiian and Alaskan Native communities. But the numbers

don't tell the whole story. These Boys and Girls Clubs are making a difference in Native American young people's lives. A club on Arizona's Fort Mojave reservation uses horseback riding to teach young people the value of responsibility and hard work. Another Arizona club, which serves the Yavapai Apache Nation, provides young people before-school and after-school tutoring. We have requested $59.5 million to continue our support for Boys and Girls Clubs in Fiscal Year 2007, and I believe we can encourage further growth in this effort.

What's just as critical as combating juvenile crime is reducing violence, particularly child abuse and child sexual assault, in Indian country. Our Office for Victims of Crime (OVC) helps tribes build their capacity to handle serious child abuse and child sexual assault cases through the Children's Justice Act (CJA) Partnerships for Indian Communities Discretionary Grant Program. The program has made numerous systemic improvements in the handling of child abuse cases. The CJA grant program has made a difference by improving the investigation and prosecution of child abuse cases; reducing the burden and trauma to child abuse victims; revising tribal codes and procedures to better address child sexual abuse; adopting culturally sensitive services and practices into the handling of child abuse cases; and hiring specialized staff to handle these cases. Since 1989, OVC has awarded more than $14,566,421 to approximately 231 tribes and nonprofit tribal agencies through this program. We are requesting $3 million for this program in Fiscal Year 2007, which maintains the current funding level.

OVC also supports efforts to help crime victims in Indian country through its Tribal Victim Assistance (TVA) Discretionary Grant Program. TVA funds programs that help tribal victims of many different types of crimes, including homicide, child abuse,

DUI, and gang violence. These programs provide assistance such as counseling, referrals, emergency services, court accompaniment, and help in obtaining victim compensation. Since 2001, OVC has awarded more than $63 million to approximately 52 tribes and nonprofit tribal agencies through this program. TVA is supported through the Crime Victims Fund, which comes from federal criminal fines, forfeited bail bonds, penalty fees, and special assessments.

In addition, OVC is sponsoring a number of conferences and trainings to help Indian tribes better serve crime victims. In March, OVC will provide training to faith-based organizations on counseling crime victims in Indian country. In May, we will bring together tribal victim advocates, tribal government officials, and state government officials to improve collaboration in victim assistance efforts. In June, OVC will hold a conference to enhance communication between tribal law enforcement and tribal victim assistance providers.

Another DOJ effort in helping reduce and prevent crimes against children is the National Sex Offender Public Registry (NSOPR), which was instituted by Attorney General Gonzales last May. NSOPR provides real-time access to public sex offender data nationwide with a single Internet search. This Web site allows parents and concerned citizens to search existing public state and territory sex offender registries beyond their own localities. The registry became operational on July 20 and initially linked 22 states to the site. Currently 48 states and one territory are linked to the site. We are exploring ways to help tribal governments that want to participate become part of the effort. The Department is requesting $2 million for NSOPR this year.

I also want to make you aware of another initiative I am privileged to lead. As the National AMBER Alert Coordinator, I am exploring ways to raise awareness about the AMBER Alert program for residents in Indian country. (The AMBER Alert program is the nation's first early warning system for missing and abducted children who are presumed to be in imminent danger.) In August 2005, we held a planning meeting here in Washington to begin development of the initiative, "AMBER Alert Reaches Indian Country." As a result of this meeting, key federal, state, and private sector individuals have begun implementing ways to bring AMBER Alert training to Native American law enforcement personnel and their respective tribal communities. In addition, the Bureau of Indian Affairs, Office of Law Enforcement Services at the Department of the Interior is now represented on the AMBER Alert Working Group. We plan to hold the next AMBER Alert National Conference in Albuquerque, New Mexico in July of this year. Albuquerque was selected in order to facilitate a related meeting that will bring together various tribal representatives to discuss issues relating to AMBER Alert and missing children within tribal government jurisdiction.

The Department also recognizes the importance of addressing domestic violence in Indian country where victims often lack the basic resources necessary to access services, such as phones and transportation. There are also complex jurisdictional difficulties, which vary from state to state. For example, just determining who the responding law enforcement agency should be in a violent situation can often be problematic and hinder appropriate response.

In Fiscal Year 2005, the Department's Office on Violence Against Women (OVW) provided funding to 80 tribal grantees for a total of $21.7 million. The President's Fiscal

Year 2007 Budget requests a grand total of $347 million for OVW grant programs. The recently signed Violence Against Women and Department of Justice Reauthorization Act of 2005 (VAWA 2005) increases the tribal set-aside from five to ten percent of funds for six OVW grant programs. OVW anticipates, out of the Fiscal Year 2007 OVW request, that no less than $25 million would be available for assistance to tribal communities.

In the past, tribal governments and tribal organizations had to submit separate applications to obtain money from each OVW program. Under the new statute, these funds will be combined into one tribal grant program, so only one application will be necessary. As tribal applicants often lack the infrastructure to apply for funding successfully under all of the available grant programs, these changes will help ease their access to funding.

OVW tribal grantees are reporting that VAWA funds are helping to make significant changes in the response to violence against Indian women. Grantees are reporting successes such as increased accountability for offenders; increased safety for victims; collaboration between criminal justice and victim services; enhanced training for criminal justice personnel; and heightened awareness of domestic violence, sexual assault, and stalking.

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 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 560 federally recognized Indian tribes in the United States that, together, control about 56 million acres of land and have a tribal membership population of about two million people. Moreover, as you know, American Indians suffer the highest rates of violent crime victimization in the United States. Federal felony criminal jurisdiction in Indian country is usually exclusive 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 United States Attorneys. The U.S. Attorneys work 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 2005, U.S. Attorneys' offices filed 740 cases pertaining to violent crime in Indian country. These offenses included homicides, rapes, aggravated assaults,

and child sexual abuse. Several U.S. Attorneys' offices have formed task forces to investigate and prosecute crimes related to tribal casinos.

The Attorney General's Advisory Committee - Native American Issues Subcommittee (NAIS), consists of 28 U.S. 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. Members of the NAIS frequently consult with tribes on law enforcement and prosecution issues. They have also arranged training for U.S. Attorneys and their staffs to learn more about tribes in their districts.

In May 2002, the NAIS set forth its current priorities which are: 1) homeland and border security (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 has met to address terrorism and homeland security issues and problems related to gang, drug, and gun crime in Indian country, as well as to discuss the integrity of Indian gaming, the enhancement of law enforcement resources, and the problem of methamphetamine use in Indian country. At the next meeting, scheduled for this month, they will again address issues related to methamphetamine use and trafficking in Indian country and gaming issues.

The Justice Department coordinates, to the extent possible, with other relevant federal agencies, including the Bureau of Indian Affairs (BIA) Office of Law Enforcement Services. For example, the Department assigned an experienced administrator from the

Bureau of Prisons to assist BIA in developing strategies to improve detention services in Indian country. The FBI also works with other federal agencies, including BIA, on the Indian Gaming Working Group (IGWG), which addresses the most serious Indian gaming cases. The IGWG has provided financial resources, personnel, and other assistance for several Indian gaming investigations.

Mr. Chairman, Attorney General Gonzales 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 2007 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. Thank you.

OJP Responses to Senate Indian Affairs Committee
Follow-up Questions from February 14, 2006 Oversight Hearing on
the President's Fiscal Year 2007 Budget Request for Indian Programs

SENATOR DORGAN:

1. The FY 2007 budget request proposes a streamlined tribal grant program in the Office of Community Oriented Policing Services (COPS). Did the Department consult with Indian Country on this proposed consolidation, which eliminates separate funding appropriated in prior years tribal courts, tribal prison construction, tribal alcohol and substance abuse programs, and tribal youth?

From our work with tribes we have learned that tribal applicants often lack the infrastructure to apply for funding successfully under many different grant programs. With our proposal, the previously separate funding will be combined into one tribal grant program, so only one application will be necessary. We believe these changes will help ease tribes' access to funding.

While we did not consult with tribes on this specific issue, the Department of Justice has a strong relationship with Indian Country. Most of the Department's Indian Country programs are the product of extensive coordination and collaboration with tribes. The Department as a whole, COPS, and the Department's Office of Justice Programs (OJP) receive regular feedback from leadership within Indian Country about our programs and projects. OJP also coordinates the Justice Programs Council on Native American Affairs, a DOJ wide working group on Indian Country issues, where COPS is a key participant.

2. Why has the Department taken the position – as it did in the Fiscal Year 2006 budget request – that funds may be available for repair of existing facilities but not also available to construct new facilities or make major modifications to existing facilities?

Since resources for the Correctional Facilities on Tribal Lands Program have been limited, we believe that the most value can be gained by using these funds to improve existing facilities. The combined appropriation for Fiscal Years 2005 and 2006 totaled $13.818 million dollars, which is not sufficient to cover the costs of plans, architectural and engineering design of new facilities, let alone actual construction. In addition, Congress has frequently earmarked a large portion of the available funds for specific projects, making less available for other facilities. For example, $7 million out of the $9 million available for Fiscal Year 2006 was earmarked for the Choctaw Justice Center in Mississippi. We would be happy to work with the Committee to ensure that the limited resources are utilized to improve existing facilities, as well as explore options for funding new construction on tribal lands.

3. For the past two years in the Office of Violence Against Women, Congress has appropriated funds for a Native American/Native Alaskan Liaison Office to coordinate

community response to domestic violence. What level of funding is requested for this Office in FY 2007?

The conference agreements for Fiscal Year 2005 and 2006 earmarked funds to organizations in Alaska for the Native American/Native Alaskan Liaison Office. We have included information about these awards below. For FY 2007, the President's Budget does not request any additional funding for these Alaska entities. However, all grant funds awarded to tribes will be administered by the Office of Violence Against Women's (OVW) Tribal Unit. This unit was created to enhance OVW's focus on violence against women in tribal communities. Currently, the Tribal Unit has an Associate Director and three full-time Program Specialists dedicated to managing OVW tribal grant programs and grant activities. By the beginning of FY 2007, this Unit will add one additional Program Specialist and the Associate Director position will be elevated to a Tribal Deputy Director position. The Tribal Unit manages all OVW grants that are awarded to Indian tribal governments or tribal consortia. This allows for one point of contact for tribes who receive more than one grant from OVW. It also allows for a more specialized approach to working with the tribes.

OVW also anticipated that funding for tribes and tribal organizations, including Native Alaskan villages, will increase substantially in FY 2007. Under provisions of the Violence Against Women and Department of Justice Reauthorization Act of 2005, Pub. L. No. 109-162, ten percent of funds from six OVW grant programs will be set aside specifically for Indian tribal governments and tribal organizations. Furthermore, tribes and tribal governments will no longer need to submit separate applications, and adhere to differing program requirements and certifications, to obtain money from one or more of the six underlying programs. Under the new Act, these funds will be combined into one, streamlined tribal grant program. Based on requested funding for these six programs in the President's FY 2007 budget, OVW would have available over $34.1 million exclusively designated for grants to tribes and tribal organizations.

In addition, under the President's FY 2007 Budget, more than $3 million will be available for the Tribal Domestic Violence and Sexual Assault Coalitions Grant Program. This grant program provides much needed resources for the development and operation of nonprofit, nongovernmental tribal domestic violence and sexual assault coalitions to address the unique issues that confront Indian victims.

As noted earlier, the conference agreement for FY 2005 included "$7,550,000 [less rescissions] for the Native American/Native Alaskan Liaison Office to begin their work in Alaska" and earmarked the funds to go to certain entities in the State of Alaska. H.R. Conf. Rep. No. 108-792, at 738. Subsequently, for FY 2006, the conferees provided $6,7000,000, less rescissions, for the same Office "to continue their work in Alaska[.]" H.R. Conf. Rep. No. 109-272, reprinted in 2006 U.S.C.C.A.N. 1137, 1158. Pursuant to these two conference reports, OVW has made the following awards, administered by its Alaska liaison:

Fiscal Year 2005:

Municipality of Anchorage:	$2,400,000
Victims for Justice:	$ 740,000
Alaska Department of Law:	$3,601,000
Municipality of Anchorage:	$ 750,000

Fiscal Year 2006:

Alaska Department of Law:	$ 950,000
Alaska Department of Public Safety:	$5,000,000
Victims for Justice:	$ 750,000

The FY 2006 awards to the Alaska Department of Law, Alaska Department of Public Safety, and Victims for Justice were made for two, three, and two years, respectively.

Written Statement of
Anslem Roanhorse, Jr., MSW, Executive Director
Navajo Division of Health
On Behalf of
Joe Shirley, Jr., President
THE NAVAJO NATION

Submitted to the
Senate Committee on Indian Affairs
United States Senate

Hearing on
The President's Fiscal Year 2007 Budget Request

February 14, 2006

Introduction

Honorable Chairman McCain, Honorable Vice Chairman Dorgan, and distinguished members of the Senate Committee on Indian Affairs, the Navajo Nation is submitting a written statement regarding the President's Fiscal Year 2007 Budget Request for the Department of Health and Human Services. The President's Fiscal Year 2007 budget request for the Indian Health Service totals $4.0 billion which is an increase of $124.5 million or 3.2 percent over the Fiscal Year 2006 enacted budget amount. The budget includes $25 million to reduce methamphetamine abuse for which the Navajo Nation is grateful and appreciative; however, the entire funding for the Urban Indian Health Program will be cut and funding for Health Care Facilities Construction will be reduced by $20.1 million. Additionally, the President's Fiscal Year 2007 budget request eliminates funding for the Community Services Block Grant.

The Federal government has the responsibility for delivery of health care services to more than 1.9 million American Indians and Alaska Natives through programs and facilities operated by the Indian Health Service, Tribes, and Urban Indian organizations pursuant to treaties, Acts of Congress, Presidential Executive Orders, and regulations. The Navajo Nation respectfully calls upon members of the United States Senate/Congress and the Administration to truly honor its Federal trust responsibility and obligation.

Background

The Navajo Nation is the largest Federally-recognized Indian tribe in the United States. The Navajo Nation is a treaty tribe: it entered into a treaty with the United States in 1868.

According to the 2000 United States Census, there are nearly 300,000 enrolled tribal members. The Navajo Nation extends into 3 states (Arizona, New Mexico, and Utah) and covers about 27,000 square miles – about the size of the state of West Virginia. The Navajo Nation also extends into 3 Federal regions of the Department of Health and Human Services, including Region 6, Region 8, and Region 9.

The Navajo Nation is challenged daily by social and cultural barriers as exemplified by the 2000 U.S. Census such as:

Navajo	U.S.	
22.3	32.9	Median age
56.1%	13.1%	Persons living below poverty level
43.3%	4.3%	Unemployment rate
82%	n/a	Navajo language spoken at home
9,286		Miles of public roads (78% are dirt or gravel)
68,744		Housing units
15,279		Homes (31.9%) lack complete plumbing
13,447		Homes (28.1%) lack a complete kitchen facility
28,740		Homes (60.1%) lack telephone services

Funding and Health Disparities

The Indian Health Service, an agency within the Department of Health and Human Services, is responsible for the delivery of health care services to more than 1.9 million members of 562 Federally-recognized American Indian tribes and Alaska Native organizations. The Indian Health Service is divided into twelve Areas. The Navajo area represents the largest direct care function of the Indian Health Service and serves nearly 237,000 individuals, equating to over one million outpatient and inpatient visits annually. Access to primary, specialty, and long-term care and emergency services is limited by geographic constraints and by the chronic and severe under-funding of the Indian health system.

American Indians and Alaska Natives have significantly worse health status compared to the rest of the nation. According to the Assistant Surgeon General, Director of Indian Health Service Charles W. Grim, D.D.S., M.H.S.A., American Indians and Alaska Natives are:

- 770% more likely to die from alcoholism,
- 650% more likely to die from tuberculosis,
- 420% more likely to die from diabetes,
- 280% more likely to die from accidents, and
- 52% percent more likely to die from pneumonia or influenza than the rest of the United States.

Despite the fact that the Indian Health Service is severely under-funded, the Navajo Nation and the Navajo Area Indian Health Service made some positive strides in improving the health status of the Navajo people. However, there is much work ahead of us as we strive to intervene in reducing mortality from accidents, suicides, and chronic diseases such as heart disease, diabetes, and cancer. According to Indian Health Service Level of Need Funded Methodology, the current funding level to Navajo Area Indian Health Service is only 54 percent of the actual need. Further, the current funding to Navajo Area Indian Health Service averages at $1,187 per person while the national average is about $3,582 per person.

A 2003 report by the U.S. Commission on Civil Rights "found that the U.S. government spends 50 percent less money on health care for Native Americans than for any other group, including prisoners and Medicaid recipients."[1] "The review of quality of services indicated that while Indian Health Service facilities have received adequate ratings in accreditation surveys, Indian Health Service faces significant problems with the retention and recruiting of qualified health care providers, and the maintenance of aging facilities. Furthermore, severely inadequate funding of Indian Health Service creates the majority of the access and quality issues. While not all access and quality issues may be resolved with additional funding, raising Indian Health Service funding levels to be comparable with mainstream health care organizations would eliminate many of the basic problems, while providing access to quality health care for Native Americans."[2] This clearly is a funding disparity and the unmet health care needs of the American Indians and Alaska Natives are enormously high.

Health Care Facilities Construction

The Navajo Nation actively participated in the Fiscal Year 2007 Indian Health Service budget formulation process at the area and national levels. The Navajo Nation and the Navajo Area Indian Health Service jointly recommended or designated health care facility construction and sanitation facilities construction as the top two funding priorities for Fiscal Year 2007. The Navajo Nation is woefully concerned about the $20.1 million decrease in health care facilities construction funding because the Kayenta Health Center finally gained standing on the Indian Health Service national priority listing for funding consideration. Because of the Fiscal Year 2007 President's budget request, funding for the construction of the facility could be adversely affected by the budget cut. The Navajo Nation urges the Committee to restore the $20.1 million cut to the health care facilities construction budget.

Urban Indian Health Programs

According to the 2000 United States Census, over 60 percent of American Indians and Alaska Natives reside in urban areas.[3] The Urban Indian Health Programs receives about one percent of the Indian Health Service budget to serve about 150,000 American Indians and Alaska Natives who reside in urban areas. The Urban Indian Health Programs including the Native Americans for Community Action, Inc. (NACA), a community-based outpatient ambulatory clinic located in Flagstaff, Arizona, provides unique, culturally appropriate, and non-duplicable health care services to nearly 5,000 American Indians. NACA receives funding through the Navajo Area Indian Health Service.

The assertion that the Health Resources and Services Administration's Health Centers Program will adequately provide health care services for American Indians and Alaska Natives in the urban areas lacks support. For example, HRSA facilities do not offer culturally appropriate health care services for our population; and, there is no evidence of an increase in funding large

[1] http://www.usccr.gov/press/archives/2003/100803.htm
[2] http://www.thememoryhole.org/usccr/usccr_natam_disparities.pdf
[3] The Health Status of Urban American Indians and Alaska Natives, Urban Indian Health Institute, March 16, 2004; www.uihi.org.

enough for the HRSA HCPs to effectively care for our additional population. Therefore, the Navajo Nation firmly opposes budget elimination of the Urban Indian Health Program and instead urges the Committee to support the restoration of the Urban Indian Health Program in the Fiscal Year 2007 budget—if not increase the funding.

Access to Recovery Program to Reduce Methamphetamine Abuse

According to the Indian Health Service, over 2,000 individuals were treated for methamphetamine use in 2000. The Indian Health Service treated over 4,000 individuals in the first eight months of 2004. Recently, a triple homicide in Shiprock, New Mexico, involved methamphetamine use and trafficking. In that same area, a sister stabbed her brother to death while both were on methamphetamine. In 2005, 122 of drug-related calls for service, or about 10 percent for the seven districts of the Navajo Department of Law Enforcement, were methamphetamine related.

Since May 2004, the Navajo Department of Behavioral Health Services, which is primarily responsible to prevent, reduce or eliminate substance abuse on the Navajo Nation, began engaging in methamphetamine awareness and prevention activities in local communities. Methamphetamine Prevention Task Forces were created in collaboration with other agencies in five agencies on the Navajo Nation to address the escalating problem. On February 11, 2005, the Navajo Nation Council enacted the Controlled Substances Act making the possession and sale of methamphetamine a crime on the Navajo Nation.

The Navajo Nation strongly supports $25 million budget for the Access to Recovery Program to reduce methamphetamine abuse and recommends that those funds be used to expand services to American Indians and Alaska Natives on a non-competitive, recurring basis by providing direct funding to Indian tribes.

Community Services Block Grant

The New Dawn Program and the Navajo Women, Infants and Children Program (WIC) are funded by the Community Services Block Grant.

The President's Fiscal Year 2007 budget request totally eliminates funding for the New Dawn Program. The New Dawn Program, a horticulture program, provides culturally acceptable support and services to achieve and maintain self-sufficiency with respect to nutrition, physical activities, health education, horticulture techniques, food production, and increase the availability of high quality fresh and nutritious foods. The program distributes vegetable seeds, fruit trees, shade trees, seedlings, and flower seeds. The program coordinates with schools, chapters, and local organizations such as community farm organizations, farm boards, senior centers, group homes, Boys and Girls Club, high school Future Farmers of America, and housing programs.

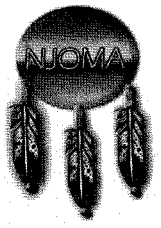
The President's Fiscal Year 2007 budget has essentially frozen funding for the Women, Infants and Children Program at $5.2 billion and forecasts that funding level will be adequate to serve 8.2 million participants. The budget request may detrimentally impact the Navajo WIC Program because the budget proposes to cap Nutrition Services and Administration (NSA) funding at 25

percent of the national total funding for grants to State agencies. Currently, NSA represents about 26.5 percent of the national WIC grant level. It is unclear whether the cap will be applied on a State by State basis. If such a cap is applied, it is possible that this provision could cause a reduction in the Navajo Nation's NSA funding in Fiscal Year 2007 because the Navajo WIC Program functions as a State serving about 14,000 clients. The Navajo Nation opposes any plan that recommends legislative language that will require a state match for NSA.

The Navajo Nation opposes budget elimination of the Community Services Block Grant and urges the Committee to restore funding to continue the New Dawn Program and the Navajo Women, Infants and Children Program.

Conclusion

The Navajo Nation respectfully requests the support of the Senate Committee on Indian Affairs to help elevate the health status of American Indians and Alaska Natives and to help close disparities in health care by increasing and/or restoring funding for the Indian Health Service, Access to Recovery Program, and Community Services Block Grant. The Navajo Nation appreciates the opportunity to submit this written statement on the President's Fiscal Year 2007 Budget Request.



TESTIMONY OF
VIRGINIA THOMAS
PRESIDENT
NATIONAL JOHNSON-O'MALLEY ASSOCIATION BOARD
BEFORE
COMMITTEE ON INDIAN AFFAIRS
U.S. SENATE
FEBRUARY 14, 2006

Restoration of Johnson-O'Malley

Mr. Chairman, Mr. Vice Chair, Members of the Committee, ladies and gentlemen, I want to thank you for the opportunity to present testimony today. My name is Virginia Thomas, and I am President of the National Johnson-O'Malley Association, a group representing the tribal and local Johnson-O'Malley programs of the United States. I am also the Manager of the JOM program for the Muscogee (Creek) Nation of Oklahoma and have been involved with the Johnson-O'Malley program for the past 34 years. I have witnessed the success of this program both among the students and parents that have participated in the JOM programs in their communities. My testimony today will be regarding one of the oldest and most important programs for providing education to American Indian students, the Johnson-O'Malley (JOM) program. We are proud of our long history of service and hopeful for our continuing value in the future.

Enacted in 1934, the Johnson-O'Malley program was the first attempt by the Federal government to fund programs for the education of Indian students on an institutional basis. Through the 1960s, the JOM program funded both the basic costs associated with academic programs and additional, supplemental services for Indian children attending public schools. By the early 1970s, the Impact Aid program was paying for basic educational expenses, and the JOM program became a supplemental program for Indian students in public schools. Through this program, a range of academic remedial services, cultural programs and services were made available. In the 1970s, such programs become contractible by Indian tribes and nations, and today, all the funds are contracted through tribes, tribal organizations, or state departments of education.

For over sixty years, the JOM program constituted a separate appropriation under the Federal budget and appropriations bill. Things were fine and in the 1980s, appropriations for the program were as high as $32M. However, in 1995, the Bureau of Indian Affairs (BIA) proposed transferring the JOM funds and program responsibility into the Tribal Priority Allocation (TPA) system. The TPA is a block grant to tribes, including a number of program allocations and authorities that were separate programs. Theoretically, the TPA system allows tribes the flexibility to move funds between activities within the TPA budget category to meet local and tribal priorities. However, as with most block grant schemes, the TPA has been used as a budget regulatory tool with amounts always staying the same or even decreasing, thus effectively limiting or cutting the services in the programs included in the TPA.

Tribes in the JOM community resisted the proposed Bureau addition of the JOM program to the TPA. Responses to the BIA's ***Federal Register*** notice implementing this shift were uniformly negative. The BIA refused to conduct any outreach or consultation on this shift. Failure to consult tribes on this shift was in direct conflict with statutory provisions relating to educational programs (Section 1131 of P.L. 95-561) and BIA stated policy. Unfortunately, failure to consult has been more the rule than the exception in the BIA's history. Despite tribal and educator opposition, the BIA added the JOM program to the TPA, creating the current problem.

Because of the deletion of JOM as a separate line item in the budget, the Johnson-O'Malley program (JOM) has been in a state of "suspended animation" for the last 10 years. Tribes and other grantee/contractors under JOM have been frozen at the 1995 student count and funding figures since the inclusion in the TPA and under the Bureau's plans, this will continue indefinitely.

However, the state of education reality has not been similarly frozen. The numbers of children served by most of the JOM recipients has fluctuated year by year. In most cases, the numbers of children eligible for JOM services has gone up; just as the number of children in the general education system has increased. This means that tribes and JOM entities have been forced into two equally bad positions; either:

1) Refuse to provide services for any children in excess of the number funded in 1995 or

2) Provide services to all eligible children, but dilute the number and types of services to reflect the fact that some of the need is unfunded.

Most recipients have not refused any child services, since it would be basically unfair to serve one child and not serve another, and the choice would be impossible. Besides, these children are our future and the need is so great. For this reason, many recipients have been forced to dilute their services to serve the greater number of JOM children. Tribes have used their own funds to augment the Federal funding, but tribes do not have funds to do this in most cases, and to put it in a program which is essentially a Federal trust responsibility dilutes the funds available for other tribal needs.

The answer would be to reconstitute the JOM funds as a separate appropriations/budget account, remove it from the TPA, and then fund it according to need. To support such a move, we need an accurate and up to date vision of the need and program as it currently exists. Unfortunately, the BIA has resisted these efforts.

According to the Department of Interior report on the 2004-2005 school year, it states:
"Education is critical to ensuring a viable and prosperous future for Tribes and individual Indians. The Bureau of Indian Affairs (BIA) provides an education to Indian children on federally recognized reservations at 170 elementary and secondary BIA schools across 23 States. The school population is about 47,000 –roughly seven percent of all Indian children attending elementary and secondary schools in the Nation—but has been declining annually."

They also go on to state:
"A principal objective of BIA is to achieve Adequate Yearly Progress (AYP) in all BIA funded schools. The AYP is the accountability system under the No Child Left Behind Act that measures student proficiency in math, reading, and language arts. During school year 2004–2005, only 30 percent of BIA schools met their AYP. This does not compare favorably with the public schools located in the 23 States where BIA has schools; the number of individual public school districts meeting their AYP targets averaged 75 percent for the same year.

The Administration is concerned about AYP statistics in Indian Country and is taking positive steps to revitalize Indian education. Current performance is not acceptable, and the 2007 Budget includes additional funding to restructure the BIA Office of Indian Education Program and establish leadership positions that will be accountable for monitoring and helping BIA schools achieve AYP targets. In addition, BIA has developed Program Improvement and Accountability Plans, similar to those used by underperforming States to achieve better performance.

The 2007 Budget continues to provide significant funding for BIA school construction that is sufficient for fully or partially funding up to four replacement schools and several major rehab projects. BIA expects to complete 19 replacement schools in 2006 and 2007 that were funded during the last several years."

The new leadership positions, school construction and replacement schools are to serve 7% of the all Indian children. The other 93% of the Indian children are being served through the public school system which the Johnson-O'Malley program is a part of. The BIA's own mission statement reads: "The mission of BIA is to fulfill its trust responsibilities and promote self- determination on behalf of federally recognized Indian Tribes." The trust responsibility is to insure that the "special and unique needs of Indian children" are being met.

The proof of this mismanagement of their trust responsibility came with the FY 2007 Budget submission. This year the Bureau of Indian Affairs recommended to the Congress to eliminate the Johnson O'Malley program totally from the budget. Without consultation or notice, the BIA made this recommendation to the President. The BIA has only one stance and that is to elevate their own positions under the reorganization plan and to eliminate their trust responsibility towards the education of Indian children. The reasons given in the budget documents for such a cut would be nonsense, if the results were not so devastating. The reasons were as follows:

1) ***"The education budget includes reductions in programs due to lack of performance accountability, duplication of other state and federal programs and implementation of management efficiencies"*** – How would the Bureau know? They haven't collected information on this program in a decade. Contrary to this statement, JOM is a vital program in Indian Country – just ask the tribes. Though it is in the TPA block grant, every tribe continues to conduct the program. They do not transfer this money to any other use, though there are plenty of needs in Indian Country, even if the BIA does not know it, leaders in Indian Country know the value of our children and they value JOM. Proof of this is evident from the fact that many tribes augment the Federal monies for this program.

Furthermore, invalid statements about a lack of accountability are insulting to tribes and Indian parents. The Johnson-O'Malley program is the one remaining Federal program that puts the program under the strict control of an Indian Education Committee. The Indian Education Committee is composed of parents of eligible students enrolled in the school district. Choices are made at the local level, with scarce resources going to locally determined needs, not some menu of services dreamed up by a bureaucrat in Washington. This statement from the Bureau proves that the freeze on the student count has been detrimental to the JOM program nationwide. The BIA set the JOM programs for this specious argument when they implemented the freeze and transfer to the TPA against the recommendations of the tribal leaders, the National JOM Association and NIEA. JOM programs are meeting real, locally determined needs, in the most efficient way possible. These programs are a great investment.

2)"The elimination is proposed because similar funding is available from the Department of Education and because of a lack of accountability for how the funding is used." The U.S. Department of Education oversees the Title VII Indian Education Act programs which the President considers 'a similar funding' source for Indian Education. The Title VII program is run directly through the school districts and is not subject to tribal control. The tribes have no actual authority over the design or implementation of the Title VII programs. Under the JOM regulations, the parents of eligible JOM students have 'fully vested authority' to design and implement their JOM programs. By regulation, (25 CFR, part 273.16-17) the JOM programs are based on community needs assessment and not the needs of

the school district and serve a much broader range of needs and services. The JOM program is the only federally funding program that allows for student, parent and community involvement in meeting their educational needs which is both academic and culturally based. Also, the eligibility for Title VII students is not based on students belonging to a federally recognized tribe – they just need to self - identify as Indians.

Also, this argument rings hollow with some of us who remember similar arguments being made in 1982 and 1983. In 1982, the BIA proposed doing away with Johnson-O'Malley, arguing it duplicated the Indian Education Act. The Congress soundly refuted this reasoning, stating the programmatic differences in control and scope and the difference in student eligibility. So in 1983, the Department of Education asked to do away with the Indian Education Act, arguing it duplicated JOM. Congress reacted so negatively to this proposal that any further debate on these two programs was shelved and, we thought, put to rest. Now, evidently, in order to balance a budget, they have been resurrected. We are happy to say that the House and Senate Appropriations Committees have both rejected this proposal and have put money back in the budget for funding JOM. Unfortunately, the funding is again at a zero amount.

This points out our problem – we need a student count of those being currently served, a count of all eligible students and we need information on how much money is needed for this program to continue to fulfill a service record stretching back over 70 years. Each Indian student has the right by the Johnson-O'Malley Act to have services provided to meet their special and unique needs. No one tribe, No one child, No one community is above the other. By freezing the student count, the BIA has taken it upon itself to say which child deserves to be served. There is no possibility of growth to add programs or to add students. The tribes now must stretch their JOM funds to meet the needs of an ever-increasing population of eligible students. If a child meets the criteria of eligibility stated in the Code of Federal Regulations that govern the JOM Programs, they should be served and counted as all the other eligible students.

The following is the statutory authority for the Johnson-O'Malley program – the Snyder Act, as found in the U.S. Code. The USDOE funding has to be reauthorized, whereas Johnson-O'Malley does not.

25 U.S.C.
Sec. 452. Contracts for education, medical attention, relief and social welfare of Indians

The Secretary of the Interior is authorized, in his discretion, to enter into a contract or contracts with any State or Territory, or political subdivision thereof, or with any State university, college, or school, or with any appropriate State or private corporation, agency, or institution, for the education, medical attention, agricultural assistance, and social welfare, including relief of distress, of Indians in such State or Territory, through the agencies of the State or Territory or of the corporations and organizations hereinbefore named, and to expend under such contract or contracts, moneys appropriated by Congress for the education, medical attention, agricultural assistance, and social welfare, including relief of distress, of Indians in such State or Territory.

To this end, we ask all of the Members of this Committee to request the restoration of the Johnson-O'Malley program back to the funding level in 1994 of 24 million dollars.

Thank you for allowing me to submit this testimony. The National Johnson-O'Malley organization stands ready to help you in any way possible.

National Johnson-O'Malley Association
Information bullets
FY 2007 Budget

- **Increase the Johnson-O'Malley national allocation back to the FY 94 status of $24 million**

The President's FY 2007 budget request total elimination of Johnson 0'Malley (JOM) grants on the advice of the BIA stating that the JOM programs were duplicative of other grants and programs. In 1982, the BIA proposed doing away with Johnson-O'Malley, arguing it duplicated the Indian Education Act. The Congress soundly refuted this reasoning, stating the programmatic differences in control and scope and the difference in student eligibility. So in 1983, the Department of Education asked to do away with the Indian Education Act, arguing it duplicated JOM. Congress reacted so negatively to this proposal that any further debate on these two programs was shelved and, we thought, put to rest. In regards to the 2006 budget, the JOM program was cut in half but restored to the $16 million status by the House and Senate Appropriations Committees who rejected the President budget.

- **The Johnson-O'Malley programs serve 97% of the Indian students in nation in reference to the 7% that is currently being served by the Bureau schools.**

During school year 2004–2005, only 30 percent of BIA schools met their AYP. This does not compare favorably with the public schools located in the 23 States where BIA has schools; the number of individual public school districts meeting their AYP targets averaged 75 percent for the same year. The National Johnson-O'Malley Association and it's membership, attribute the AYP 75 percent average in part to the JOM Programs serving the 97% of the Indian student not being served by the BIA schools. The 2007 Budget includes additional funding to restructure the BIA Office of Indian Education Program and establish leadership positions that will be accountable for monitoring and helping BIA schools achieve AYP targets. Again, this additional funding for the BIA Office of Indian Education Program is targeted only to serve 7% of the Indian student population in the nation.

- **The Johnson-O'Malley programs allows for full participation of parents in the education of their children.**

JOM is the only federal program whose regulations are based on the involvement of parents and community and allows them to design a program that best fits their needs. The JOM Parent Committees are policy setting by statutory requirements (25 CFR, part 273) and not just advisory committees as other federal programs. The Parent Committees under the JOM federal regulations are vested with authority to development and implement their JOM programs. The best way to achieve AYP is to keep the parents involved, and the JOM program nationwide has proven their success in doing so.

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Testimony of Ryan Wilson, President
National Indian Education Association
before the
Senate Committee on Indian Affairs
on the President's FY 2007 Budget Request
February 14, 2006

Chairman McCain, Vice Chairman Dorgan, 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 President's FY 2007 budget request.

Founded in 1969, the National Indian Education Association is the largest organization in the nation dedicated to Native education advocacy issues and embraces a membership of over 3,000 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 that the federal government upholds its responsibility for the education of American Indians, Alaska Natives, and Native Hawaiians 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 quality 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 the same standards as students nation-wide.

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 present to Indian communities, who often live in remote, isolated and economically disadvantaged communities. There is no one more concerned about the accountability and documentation 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 for Native students. For example, the

appropriations available under Title VII of the No Child Left Behind Act provide only an inadequate amount of a few hundred dollars per student to meet the special educational and culturally related needs of our students.

Despite all of the funding needs for educational services for American Indian, Alaska Native, and Native Hawaiians, the President's FY 2007 budget request calls for a **reduction** in discretionary funding for the Department of Education of about 5.5% and a **reduction** in funding for the Bureau of Indian Affairs of about 2.4%.

Department of Education Budget Request

The Department of Education funds the education of Native American students by operating Native American-targeted programs and setting aside funds within programs open to all students and transferring these funds to the BIA for BIA- managed schools. Department of Education Native American Programs are consistently funded at the minimum level established by Congress, never the maximum. The federal government has not upheld its legal and moral obligations to provide sufficient funding for the education of Native American students.

President Bush's budget proposes a $3.1 billion or 5.5 % decrease for education spending, leaving $54.4 billion in total discretionary appropriations for the Department of Education. Within the Department of Education budget, none of the programs specifically for Native students received an increase. Rather, several programs for Native students received decreases in funding while the rest received level funding from Fiscal Year 2006 levels, resulting in de facto decreases in light of inflation.

Title VII Programs

Due to the tight federal budget for this year, NIEA requests a moderate **5% increase of $9.3 million** for a total of $195.8 million in FY 2007 for NCLB Title VII funding for American Indian, Native Hawaiian, and Alaska Native education. Funding for Title VII in FY 2006 was $186.5 million. This figure includes Indian Education, Education for Native Hawaiians, and Alaska Native Education Equity.

The President's FY 2007 request for Indian Education and Alaska Native Education Equity calls for level funding, and the request for Education for Native Hawaiians is reduced by 8% despite the fact that NIEA and Native educators have been asking for 5% increases in all Native education program funding. Indian Education program funding remains at the same level as FY 2006 at $118.7 million and down from FY 2005, FY 2004 and FY 2003 levels despite our increased needs. Inadequately funding Native education programs will diminish, if not undo, the progress that has been made. Within the past several years, the Office of Indian Education has suffered from inconsistent funding, has never received full funding, and many sub-programs have never been funded.

The purpose of Title VII programs in NCLB is to meet the educational and culturally related academic needs of American Indian, Alaska Native, and Native Hawaiian students. The funds for these programs are the **only** sources of funding that specifically

address the cultural, social, and linguistic needs of Indian students. At current levels, these programs are underfunded and the proposed levels would only provide approximately $204 a student (Indian Education grants). NIEA recommends an increase in funding to $250 a student. This increase in funding could be used to motivate students, support improved academic performance, promote a positive sense of identity and self, and stimulate favorable attitudes about school and others. Native students are more likely to thrive in environments that support their cultural identities while introducing different ideas. The importance of such environments cannot be overstated.

Increasing the Department of Education budget for Native education programs by 5% would provide a giant step forward in helping Native students achieve the same high standards as other students nationwide while at the same time preserving and protecting the integrity and continuity of Native cultural traditions. We realize that a 5% increase will not address all of our needs but we recognize the current tight budget climate.

Programs proposed for elimination that have a direct effect on Native students include Gaining Early Awareness and Readiness for Undergraduate Programs, TRIO Talent Search, TRIO Upward Bound, Even Start, Perkins Loans, Exchanges with Historic Whaling and Trading Partners, and School Dropout Prevention, to name a few. These programs have provided an enormous benefit to Native students and served their intended purpose in Native communities. Even Start serves a vital role in Native communities, helping to break the cycle of poverty and illiteracy by providing assistance with writing and language skills to disadvantaged communities. Upward Bound and Talent Search programs have increased the skills and motivation for Native students to pursue post-secondary education. These programs have focused on the needs of our children and the proposed elimination of these programs would cause a negative disparate impact on Native students. NIEA recommends restoration of these programs targeted for low-income students.

Title I Programs

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 2007 budget request fails to fully fund the Title I low- income school grants program, which is critical to closing achievement gaps. Level funding of $12.7 billion still leaves Title I programs at more than $7 billion below the authorized level for NCLB. Outside of fully funding Title I, NIEA advocates for an increase that would at least keep pace with inflation so that none of the grants would receive a de facto decrease.

There is a concern that education funds for Native students do not always reach the students they are intended to serve. While the set aside for BIA schools presumably is spent on Native students, it is not clear that this is the case with grants to local education agencies. Most Native students are educated in non-tribal public schools, not BIA schools, and a large share of funding does not flow directly to Native students. Often times, Title VII funds, whose purposes are related to language and culture, are being used

for before school, after school, and tutorial programs -- essentially Title I programs. In other words, Title VII monies are being used to fund Title I programs because the Title I funding is inadequate, and Indian students are not receiving the cultural components that are mandated in Title VII.

Higher Education
Within the Department of Education budget, the Tribally Controlled Postsecondary Vocational and Technical Institutions and Strengthening Tribally Controlled Colleges and Universities requests remain flat funded at the 2005 levels of $24 million; while, the Strengthening Alaska Native and Native Hawaiian Institutions program receives a 30.9% decrease from FY06 levels to $9 million. Tribally controlled colleges and universities receive just under $3,000 annually per student, less than half of the amount annually provided per student to other community colleges, and do not have access to other state and local dollars, exacerbating the situation. NIEA requests a 10% increase in funding to tribal colleges because these colleges rely on federal funding to meet core operational needs.

Impact Aid
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 for Impact Aid remains at FY06 levels, a $15.4 million decrease from FY05 levels. Out of the Impact Aid funding, the construction funds have received the largest decrease ($30.7 million from FY 05 levels), disparately impacting the schools that benefit most from the construction dollars -- those serving Native students. NIEA recommends restoration of the Impact Aid construction dollars to the FY05 level of $48.5 million.

Department of Interior Budget Request
There is a $52.4 million reduction in funding for the Bureau of Indian Affairs (BIA). BIA's budget has historically been inadequate to meet the needs of Native Americans and, consequently, our needs over time have multiplied. The FY 2007 BIA budget request fails to fund tribes at the rate of inflation, exacerbating the hardships faced by Native American students.

There are only two educational systems for which the federal government has direct responsibility: the Department of Defense Schools and Federally and Tribally operated schools that serve American Indian students. The federally supported Indian education system includes 48,000 students, 29 tribal colleges, universities and post- secondary schools. The federal government's responsibility for the education of Indian people is in response to specific treaty rights; however, to us, the FY 2007 budget signifies an increased negligence of its trust responsibilities.

Indian School Construction Funding
The inadequacy of Indian education facilities is well documented and well known. NIEA requests a **$56.6 million increase** from the FY 2006 enacted level of $206.8 million for a total of $263.4 million in FY 2007 for BIA for Indian school construction and repair. The FY 2007 budget request for school construction and repair is only $157.4 million;

while, in FY 2006, the enacted level of funding for BIA Indian school construction and repair was $206.8 million despite the President's budget request in FY 2006 to significantly reduce this funding. In FY 2005, the enacted funding level was $263.4 million, which was instrumental in reducing the construction and repair backlog.

In 1997, GAO issued a report "Reported Condition and Costs to Repair Schools Funded by the Bureau of Indian Affair" that documented an inventory of repair needs for education facilities totaling $754 million. In 2004 the backlog for construction and repair was reported to have grown to $942 million. During President Bush's first term, he promised to remove the backlog for new Indian school construction. Between 2001 and 2006, funding was appropriated for 34 replacement schools. Since that time, 10 of the schools are completed and operating with 19 in design and construction. The FY 2007 budget proposes to cut Indian school construction by $49.3 million from the FY 2006 enacted level with the rationale that the focus must remain on schools already funded for construction and school construction has fallen behind. We understand and support the Committee's views that money for programs and construction must be managed appropriately and efficiently; however, our children are forced to shoulder the burden of contracting delays at the BIA and tribal levels. Completing the construction of 10 schools since 2001, while progress, is not enough. We believe that we must keep pace with the FY 2005 level of funding in order to finally make some headway in the construction backlog. The purpose of education construction is to permit BIA funded schools to provide structurally sound buildings in which Native American children can learn without leaking roofs and peeling paint. It is unjust to expect our students to succeed academically if we don't provide them with a proper environment to achieve success.

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. Old and exceeding their life expectancy by decades, BIA schools require consistent increases in facilities maintenance without offsetting decreases in other programs if 48,000 Indian students are to be educated in structurally sound schools.

Of the 4,495 education buildings in the BIA inventory, half are more than 30 years old and more than 20% are older than 50 years. On average, BIA education buildings are 60 years old; while, 40 years old is the average age for public schools serving the general population. 65% of BIA school administrators report one or more school buildings in inadequate physical condition. Although education construction has improved dramatically over the last few years, the deferred maintenance backlog is still estimated to be over $500 million and increases annually by $56.5 million. As noted by the House Interior Appropriations Subcommittee in its Committee Report accompanying the FY 2006 Interior appropriations bill, "much remains to be done." Of the 184 BIA Indian schools, 1/3 of Indian schools are in poor condition and in need of either replacement or significant repair.

Johnson O'Malley Funding
The President's FY 2007 budget requests total elimination of Johnson 0'Malley (JOM) grants. The FY 2006 enacted level was $16.4 million, and the FY 2005 enacted level was $16.51 million. In the FY 2006 House Interior Appropriations Subcommittee Report accompanying the FY 2006 Interior appropriations bill, the Committee rejected the Administration's FY 2006 budget request to cut JOM by over 50%, stating that the Administration's justification for the reductions -- that there are other programs in the government that could provide these funds (which is the same justification given in the President's FY 2007 budget request) - "is completely unfounded."

JOM grants are the cornerstone for many Indian tribes in meeting the unique and specialized educational needs of Native students. The purpose of JOM grants is to provide supplementary financial assistance and not take the place of federal, local, or tribal resources. JOM grants are distributed to tribes under Tribal Priority Allocations from the BIA to address Native student needs in local public schools from age 3 until twelfth grade. Because many Indian students do not attend BIA schools, the JOM program provides tribes with an opportunity to address their members' educational needs.

Many Indian children live in rural or remote areas with high rates of poverty and unemployment and funds from JOM have historically added to the quality of student life for many Native students. JOM helps to level the field by providing Indian students with programs that help them stay in school, including remedial instruction, counseling, cultural programs, and small but important personal needs, such as eyeglasses.

In light of the difficult fiscal climate, NIEA requests at least restoration of $16.4 million for FY 2007. With that said, $16.4 million will not keep pace with the true needs. In 1995 a freeze was imposed on Johnson O'Malley funding through the Department of Interior, limiting funds to a tribe based upon its population count in 1995. The 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 that tribes are receiving funding for their student populations at a level that will provide access to a high quality education for Indian students

Tribal Colleges and Universities
Under the FY 2007 budget request, Post Secondary Education receives a decrease of $849,000. The $103.2 million BIA request for post-secondary schools is expected to support two BIA and 24 tribal colleges and universities as well as scholarships for Indian students. NIEA requests an increase of 10% over amounts appropriated in FY 2005 for programs affecting higher education of Native students in both the DOE and BIA budgets.

The average funding level for full time students for non tribal community colleges was $7,000.00 in 1996. By comparison, the 26 tribally controlled colleges under BIA are

receiving $4,447.00 per full time enrolled Indian student. Although this is the highest amount per student level to date, it is still only about 75% of the authorized level. The conditions under which tribal institutions must educate Native students are constrained by the lack of a tax base to support them. To make up for the lack of money caused by inadequate funding, tribal college tuitions are typically so high that many Native American students cannot afford them.

Restructuring of Education at the BIA
NIEA notes that BIA is proposing restructuring of the Office of Indian Education programs. The President's FY 2007 budget request calls for increasing funding in the amount of $2.5 million to support this restructuring. NIEA and the rest of Indian Country have not received detailed information regarding this proposal and believe that consultation was not sufficiently conducted. NIEA has met with the Acting Assistant Secretary of Indian Affairs, James Cason, to discuss the proposed realignment of education line offices. We believe that, while the BIA has some good concepts in mind, there needs to be additional consultation regarding its implementation in Indian Country. We agree that there needs to be change in the BIA educational programs and look forward to receiving more information and working more closely with the BIA on how the proposed restructuring will impact the education of our Native students.

Department of Health and Human Services Budget Request
Head Start
The Head Start/Early Head Start programs are vital to Indian Country. Over the last 40 years, Indian Head Start has played a major role in the education of Indian children and in the well-being of many tribal communities. Of the approximately 575 federally recognized Tribes, 28% participate in Head Start/Early Head Start Programs, with a funded enrollment of 23,374 children. These programs employ approximately 6,449 individuals of whom 3,263 are either former or current Head Start/Early Head Start parents. There are another 35,395 volunteers, of which 22,095 are parents.

The President's FY 2007 budget request calls for a .84% decrease in funding of Head Start. This means another year of less than adequate funding for Head Start programs, which, according to researchers at the National Head Start Association, could result in cuts in enrollment next year of at least 25,000 kids (calculated at 23,700 for Head Start and 1,700 for Early Head Start). The Indian Head Start program would experience a cut of approximately 725 kids. The only way to save these slots for kids under the Administration's proposal would be to take critical funding from the Head Start training and technical assistance budget. The President's budget would require programs to cut the number of children served, reduce services, lay off teachers and decrease the length of the school year or turn full day programs into half day programs.

NIEA urges this Committee to recommend a 5% increase in the overall Head Start budget and urge the Appropriations Committees to direct the Department of Health and Human Services to raise the Indian Head Start set-aside from 2.9% to 3.5% as contemplated in the House's Head Start Act reauthorization legislation.

NIEA also requests $5 million be designated in FY07 for the TCU Head Start partnership program to ensure the continuation of current TCU programs and the resources necessary to fund additional TCU partnership programs.

Administration for Native Americans
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. In addition to ensuring that Title VII purposes are being fulfilled, we must utilize the legislative process to ensure there is more support in the Native American Languages Act for projects that address the crisis of our language losses. The Native Languages and Preservation program under the Native American Languages Act Amendments of 1992 distributes grants to conduct the assessments needed to identify the current status of Native American languages and to implement preservation language projects.

NIEA requests a **$6 million increase to $50 million** in FY 2007 to ANA to support: (1) existing Native American immersion schools and programs through the competitive grant process at ANA; (2) a development effort for new immersion schools and programs through the competitive grant process at ANA; and (3) $400,000 to enable NIEA to have data collected and a study performed on the effectiveness of Native immersion schools. In FY 2004, 2005, and 2006, ANA received $44 million but less than $4 million went toward actual Native language immersion programs. The President's FY 2007 budget requests the same amount from previous years of $44 million for ANA.

Additional Funding Needs
Tribal Education Departments
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 involvement of tribes in their children's educational future is key to the educational achievement of Indian children. Tribal Education Departments (TED) provide tribes with the opportunities to become actively involved in the education of their children. 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 TEDs. The use of TEDs would increase tribal accountability and responsibility for their students and would ensure that tribes exercise their commitment to improve the education of their youngest members.

Conclusion
The continued decrease in Indian education funding is a direct violation of the federal trust responsibility. Every year our funding is decreased and the educational mandates that we must meet are increased.

NIEA respectfully urges this Committee to truly make Native education a priority and to work with the Congressional Appropriators and the Administration to ensure that Native education programs are fully funded. Every year Native educators and students are expected to achieve greater results with fewer dollars. Native education struggles to

maintain current funding levels after proposed cuts and diminishing proposals year after year. As a result no gains have been made in Indian education funding and restoration of already under funded levels are shallow victories. 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 from 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 acknowledge our children, who are our future, our triumph, and our link to the past, and their educational achievement, while working with the Bureau of Indian Affairs, the Department of Education, and tribal leaders to ensure that our children are not left behind. **We cannot expect Native children to meet adequate yearly progress if our funding does not make adequate yearly progress.**

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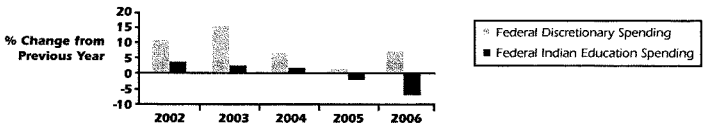
NIEA Appropriations Priorities for FY 2007

Correcting Historic Funding Inequities in Federal Indian Education Programs. A pattern has developed in recent years where Native education programs get smaller increases in years where overall funding is up and bigger cuts in years when overall funding is down. This is not just and should be corrected. For FY 2007, the President's budget requests many significant cuts in Native education, which, if enacted by the Congress, would deepen the negative effects of previous cuts. If these cuts to Native education are not reversed, then Native children and Native communities will be further harmed as well as future generations, especially given the tragic reality that the standard of living in Native communities continues to be far lower than any other group in the United States. Native communities continue to experience the highest rates of poverty, unemployment, morbidity, and substandard housing, education and health care.



$9.3 Million Increase for Title VII of the No Child Left Behind Act (NCLB) over the FY 2006 Enacted Level of $186.5 Million - U.S. Dept. of Education - Labor, HHS, Education Appropriations Bill

- **$195.8 million for Title VII** - Due to the tight federal budget for this year, NIEA requests a **moderate 5% increase of $9.3 million** over the FY 2006 enacted level for a total of $195.8 million in FY 2007 for NCLB Title VII funding. $186.5 million was the FY 2006 enacted level for Title VII. $188.3 million was the enacted level in FY 2005. The President's FY 2007 budget requests a reduction in Title VII funding from FY 2005 and FY 2006 enacted levels. The FY 2007 budget requests $182.7 million for Title VII, which is $3.8 million below the FY 2006 enacted level and $5.6 million below the FY 2005 enacted level. Title VII funding includes the following: (1) Indian Education, which includes grants to Local Education Agencies, Special Programs, and National Activities; (2) Education for Native Hawaiians; and (3) Alaska Native Education Equity.

- Title VII is underfunded and this lack of funding is exacerbated by the fact that most Native students live in rural areas with high poverty rates. Title VII provides critical support for culturally based education approaches for Native students. Title VII addresses the unique educational and cultural needs of Native students. It is well-documented that Native students are more likely to thrive in environments that support their cultural identities while introducing different ideas. Title VII has produced many success stories but increased funding is needed in this area to bridge the achievement gap for Native students.

$6 Million Increase for Native Language Immersion Programs over the FY 2006 Enacted Level of $44 Million - Admin. for Native Americans (ANA), Admin. for Children and Families, U.S. Health and Human Services - Labor, HHS, Education Appropriations Bill

- **$50 million for ANA** - NIEA requests a **$6 million increase to $50 million** in FY 2007 to ANA to support: (1) existing Native American immersion schools and programs through the competitive grant process at ANA; (2) a development effort for new immersion schools and programs through the competitive grant process at ANA; and (3) $400,000 to enable NIEA to have data collected and a study performed on the effectiveness of Native immersion schools. In FY 2004, 2005, and 2006, ANA received $44 million but less than $4 million went toward actual Native language immersion programs. The President's FY 2007 budget requests the same amount from previous years of $44 million for ANA.

- As evidenced by the number of code talker recognition bills pending in the 109th Congress, there is high regard for Native languages and the pivotal role they have played in our nation's history. It is estimated that, without increased preservation efforts, only 20 Native languages will remain viable by the year 2050. Immersion schools are successful at teaching fluency to the next generation. Also, data shows that Native students in immersion programs perform substantially better academically, including on national tests, than Native students who have not participated in such a program.

$89 Million Increase for Indian Education - Bureau of Indian Affairs (BIA), Dept. of Interior - Dept. of Interior Appropriations Bill

- There are only two education systems for which Federal government has direct responsibility: the Department of Defense Schools and Federally and Tribally operated schools that serve American Indian students. The federally supported Indian education system includes 48,000 students, 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; and anything less than full funding of Native education programs signifies an increased negligence of its trust responsibility.

- BIA's budget has historically been inadequate to meet the needs of Native Americans and, consequently, our needs have multiplied. The FY 2006 BIA budget failed to fund tribes at the rate of inflation, thus exacerbating the hardships faced by Native American students.

- **$263.4 Million for BIA Indian School Construction and Repair** - NIEA requests a **$56.6 million increase** from the FY 2006 enacted level of $206.8 million for a total of $263.4 million in FY 2007 to the BIA for Indian school construction and repair. In FY 2006, funding for BIA Indian school construction and repair was a large reduction from FY 2005 due to the BIA's position that it wanted to finish ongoing projects. $263.4 million was the funding level in FY 2005, which was instrumental in reducing the construction and repair backlog. The President's FY 2007 budget requests only $157.4 million for BIA school construction and repair, which is $49.3 million below the 2006 enacted level and $106 million below the 2005 enacted level. The funding proposed in the President's FY 2007 budget will not keep pace with the tremendous backlog of Indian schools and facilities in need of replacement or repair.

- Substantial progress has been made in replacing Indian schools, but, as noted by the House Interior Appropriations Subcommittee in its Committee Report accompanying the FY 2006 Interior appropriations bill, "much remains to be done." Of the 184 BIA Indian schools, 1/3 of Indian schools are in poor condition and in need of either replacement or significant repair. Most of these 184 schools have exceeded their useful lives as defined by the No Child Left Behind Act as a 40-year cycle.

- **$17.2 million for Johnson O'Malley Grants** - NIEA requests a **5% increase of $820,000** over the FY 2006 enacted level of $16.4 million for Johnson O'Malley (JOM) grants. The President's FY 2007 budget requests total elimination of JOM grants. The FY 2006 enacted level was $16.4 million, and the FY 2005 enacted level was $16.51 million. In the FY 2006 House Interior Appropriations Subcommittee Report accompanying the FY 2006 Interior appropriations bill, the Committee rejected the Administration's FY 2006 budget request to cut JOM by over 50%, stating that the Administration's justification for the reductions – that there are other programs in the government that could provide these funds (which is the same justification given in the President's FY 2007 budget request) - "is completely unfounded."

- JOM grants are the cornerstone for many Indian tribes in meeting the unique and specialized educational needs of Native students. JOM grants are distributed to tribes under Tribal Priority Allocations from the BIA to address Native student needs in local public schools from age 3 until twelfth grade. Because many Indian students do not attend BIA schools, the JOM program provides tribes with an opportunity to address their members' educational needs.

- Many Indian children live in rural or remote areas with high rates of poverty and unemployment. JOM helps to level the field by providing Indian students with programs that help them stay in school, including remedial instruction, counseling, cultural programs, and small but important personal needs, such as eyeglasses.

- In light of the difficult fiscal climate, NIEA requests a modest 5% increase of $820,000 over the FY 2006 enacted level of $16.4 million for a total in FY 2007 of $17.2 million. Even with such a modest increase, $17.2 million will not keep pace with the true needs. In 1995, a freeze was imposed on Johnson O'Malley funding through the Department of Interior, limiting funds to a tribe based upon its population count in 1995. The 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 that tribes are receiving funding for their student populations at a level that will provide access to a high quality education for Indian students.

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Policy Recommendations on Reauthorization of No Child Left Behind

Improving the educational achievement and academic progress of Native children is vital to the national goal of preparing every student for responsible citizenship, continued learning, and productive lives. To this end, the National Indian Education Association (NIEA) remains committed to the No Child Left Behind Act (NCLB) but seeks to sharpen the focus Title VII of NCLB to ensure the development of meaningful and effective educational programs, improvement in educational opportunities, and enhancement of parental and family involvement in the schools educating Native Americans.

The purpose of Title VII of NCLB is to provide culturally based educational approaches for Native students. These approaches have been proven to increase student performance and success as well as awareness and knowledge of student cultures and histories. The comprehensive character of Title VII to increase educational opportunity and to provide and develop effective and meaningful culturally based education approaches should be retained and its influence upon the operational aspects of the other titles within NCLB strengthened for Native students.

The recommendations below are geared toward supporting traditional Native cultures, languages, and values so that Native learners can succeed in their communities and in life.

Implementing Title VII in Conjunction with the Rest of NCLB

- NIEA supports NCLB's emphasis on accountability and achievement for Native students. However, the goals of NCLB for accountability and school improvement should include the goals of Title VII to develop and enrich educational programs for Native students. Likewise, Title VII should operate seamlessly with the other Titles within NCLB so that consideration is given to the unique language and cultural needs of Native students.

- Title VII should provide a mechanism consistent with its purposes for comprehensively aligning the utilization of other Titles within NCLB to meet the comprehensive needs of Native students. Programmatic efforts supported by other Titles should not be supplanted by Title VII. Instead, the programmatic efforts of other Titles should be designed to be specifically effective and meaningful for Native students.

- The recognition that education is an aspect of the Federal Government's trustee relationship with Indian tribes and that the Federal Government seeks to develop cooperative relationships among Federal, State and Tribal Governments currently referenced in Title VII should have a place in the operational sections of NCLB.

Individual Progress Measurements

- NCLB's accountability system currently holds the students responsible for the success of that school and likewise for perceived failures due to heavy reliance on cookie cutter standardized tests. Instead, NCLB's accountability system should hold schools accountable based upon the rates of progress actually achieved by individual students. This type of accountability system would accommodate the fact that Native students live in unique environments and communities.

- Many of the methods for holding a school accountable for improvement do not recognize the federal government's trust responsibility for the education of students nor do they recognize the unique circumstances of the significant number of small, rural, and isolated schools serving Native students. The overall emphasis on accountability should be changed to investing in the improvement of Native education in a cooperative effort among Tribal, Federal, and State Governments.

Assessments

- Multi-year school improvement plans should be developed for Native education based upon the comprehensive (including cultural) assessment needs of Native students. These assessments should guide the long term development and alignment of programs to meet these needs.

- Assessments should recognize the unique cultural and educational needs of Native children. Assessments should also be culturally appropriate and executed in the language of instruction.

Teacher Support

- The definition of "highly qualified teacher" in NCLB should accommodate teaching skills and abilities appropriate for effective instruction of Native students. The definition should also take into account the limited supply of teachers in small school settings and the need for Native language and cultural experts in the curricular programs of schools.

- NCLB should also seek to stabilize the teacher force in Native communities through investments in training and professional development for educators of Native students.

Flexibility

- NCLB should recognize the unique school contexts in terms of size and location in which Native students experience and take these factors into consideration when determining adequate yearly progress.

- NCLB should allow for flexibility that recognizes unique instructional approaches designed for Native students, such as Native language immersion programs.

- Native immersion schools that are currently required to provide assessments in the English language, which subsequently are used to measure progress, should be allowed to use alternative measures to assess student achievement. Research shows that students in immersion programs perform substantially better on National tests than students who are not. Also, the students in immersion programs do not suffer in English proficiency after third grade.

Parental, Familial, and Community Involvement

- NCLB should enhance the involvement of Native parents, families, and communities in the development of educational programs for Native students. Additionally, NCLB should assist parents in supporting the education of their children through active consultation and inclusion of parent committees in the development of long term, multi-year Native education improvement plans that hold schools accountable.

- NCLB should encourage and provide resources for intercooperation and collaboration among States, Tribes, and the Federal Government to allow for opportunities for local involvement in the development of achievement and progress standards as well as the creation of innovative programs that meet the needs of Native students.

- Parental, familial and community involvement is especially lacking and, thus, needed in schools administered by the Bureau of Indian Affairs where these schools are increasingly defaulting to state standards for assessments and progress measurements without input from the affected Native communities.

- Assistance should be provided to enable tribes to develop standards and assessments systems appropriate to the education mission of their schools and the accomplishment of challenging academic standards comparable to other state standards.

Data and Research

- The Secretary of the Department of Education should report bi-annually on the status of Native student education, including information about the activities and programs that are funded by Title VII grants and the manner in which these grants meet the culturally related educational needs of Native students.

- NCLB should require federal agencies to document Native student and Native program performance, needs, and progress as well as require data collection, research, and analyses on Native educational needs and efforts. This research should be used as baselines for evaluating educational programs for Native students.

- NCLB should include specific Federal support for research into the implementation of effective culturally based pedagogy and curriculum development approaches for Native students.

Culture and Language

- Language and cultural-based instruction for Native students increase student performance and success as well as awareness and knowledge of their cultures and histories. The broad-based purposes of Title VII should align federal and local programs to meet the comprehensive educational needs of students, provide resources that will serve to create and develop effective instructional strategies, and promote curricular programs to enrich the educational experiences of Native students.

- Cultural and language programs funded under Title VII should act as catalysts in the development of curriculum and instruction that results in student achievement and success.

Funding

- Funding for NCLB, especially Titles I and VII, should be increased to the authorized levels in order to ensure that the needs of Native students are fully served and the purposes and intentions of NCLB can be achieved.

- Funding is especially critical for Native kids, who often live in remote, isolated, and economically disadvantaged communities. Without adequate resources, it is impossible for Native students to receive a quality education.

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Federal Native Education Funding for FY 2007 – the President's Budget Request

Overview of the Congressional Appropriations Process

The President submitted his Fiscal Year (FY) 2007 budget request to Congress on February 6, 2006. Using the President's budget as a guideline, Congress will develop the actual federal budget and move it through the legislative process that includes the Budget and Appropriations Committees in the House and the Senate. Congress provides funding for Indian education programs through two separate annual appropriations bills: the Departments of Labor, Health and Human Services and Education and Related Agencies (Labor-HHS) Appropriations Bill and the Department of the Interior and Related Agencies (Interior) Appropriations Bill.

As part of the legislative process for the enactment of appropriations bills, the House and Senate Budget Committees will meet first to determine the funding allocations for each of the 13 regular appropriations bills that will move through the Congress. Once the funding allocations are determined, then the various House and Senate Appropriations Subcommittees will begin in late February through April to hold hearings on the funding accounts within their jurisdiction, to mark up their appropriations bills (generally in the summer), and to move their bills through their respective chambers (late summer through the fall). The House of Representatives Appropriations Subcommittees always generate the first versions of the 13 appropriations bills. However, once the Senate receives the House appropriations bills, then the Senate Appropriations Subcommittees will replace the House versions of the appropriations bills with their own versions of the bills. As a result of this process, the House and the Senate will pass two different versions of the same appropriations bill, causing the bill to go to conference committees comprised of House and Senate Members from the Appropriations Subcommittees that have jurisdiction over the bill. In conference, the Members will reconcile the differences in the competing bills to generate one bill that both the Senate and the House must pass.

The President's FY 2007 Native Education Budget Request

The President's budget request calls for a reduction in discretionary funding for the Department of Education of about 5.5% and a reduction in funding for the Bureau of Indian Affairs of about 2.4%.

In the President's FY 2007 budget request, programs proposed for elimination or zero funding include, Johnson O'Malley grants, GEAR UP (Gaining Early Awareness and Readiness for Undergraduate Programs), TRIO Talent Search, TRIO Upward Bound, School Dropout Prevention, and Exchanges with Historic Whaling and Trading Partners.

New programs proposed in the President's budget request include: (1) a series of K-12 math and science initiatives designed to improve math and science learning and to increase the number of math and science teachers; and (2) the National Security Language Initiative designed to strengthen the national capacity in the Arabic, Farsi, Russian, Chinese, Japanese, Korean, and Urdu.

Provided below is a detailed outline of the Native education provisions in the President's FY 2007 budget request compared to Native education funding data since either 2004 or 2005, depending on the agency.

The President's Proposed Native Education Budget for FY 2007 (in thousands)

Budget Programs within the Bureau of Indian Affairs - Interior Appropriations Bill

The President's FY 2007 budget request for the Bureau of Indian Affairs, Department of the Interior, is restructured and presented in a different format from previous years. For FY 2007, the BIA budget request is categorized by function instead of by group. Below, we have provided the BIA FY 2007 proposed education budget using the new format.

Bureau of Indian Affairs Operation of Indian Programs ($ in thousands)	**2005 Actual**	**2006 Enacted**	**2007 Request**	**Change from Enacted**
Education				
Elementary and Secondary Programs				
Forward Funded	449,721	457,750	457,352	-398
Elementary and Secondary Programs	76,218	77,223	60,800	-15,087
Post Secondary Programs	101,267	102,674	103,161	-849
Education Management	10,566	8,783	17,842	9,059
Subtotal, Education Programs	637,772	646,430*	639,155	-7,275

BIA Construction ($ in thousands)	**2005 Actual**	**2006 Enacted**	**2007 Request**	**Change from Enacted**
Education	263,373	206,787	157,441	-49,346

* includes $16.4 million for Johnson O'Malley grants from Tribal Priority Allocations

Excerpt from the President's BIA FY 2007 budget request regarding Indian education - The school operations budget represents a continued commitment to the future of American Indian youth and supports the President's commitment to "leave no child behind." The $536.0 million BIA request for elementary and secondary school operations will support 184 schools and dormitories serving almost 48,000 students. The $103.2 million BIA request for post-secondary schools will support two BIA and 24 tribal colleges and universities as well as scholarships for Indian students. The BIA funded schools also receive funding from the Department of Education and other sources.

The BIA is accountable for developing adequate strategies, monitoring, and helping BIA funded schools reach achievement targets as defined by the Yearly Progress of the accountability system under the No Child Left Behind Act that measures student proficiency in math, reading, and language arts. Student performance at BIA schools, while improving, remains lower than national averages. In school year 2004-2005, 30% of BIA schools met the measure for AYP. The BIA worked with Tribes and tribal school boards to develop a program improvement and accountability plan to improve the effectiveness of the education services provided in the bureau funded school system.

The 2007 BIA budget includes an increase of $2.5 million to meet the objectives of the program improvement and accountability plan. The BIA is realigning education offices in the field and in headquarters to a more centrally coordinated organization. The restructured program will provide the oversight capacity necessary to promote progress in student achievement in all schools. The new organizational structure establishes new leadership positions, placing senior executives in strategically located education line offices to strengthen accountability. A mix of data, contract, and finance specialists at a central location will provide system-wide services allowing school administrators and teachers to focus on student needs.

The BIA believes that juveniles temporarily detained in detention centers are less likely to repeat offenses if they have the opportunity to stay current with their academic instruction. The budget includes an increase of $630,000 to establish education programs for juveniles housed at the 20 BIA funded juvenile detention centers. The increase will support contracts that provide educational instruction to these students on an interim basis, as needed.

Johnson-O'Malley grants, funded with Tribal Priority Allocations, are distributed by the Tribes to address Indian student needs in local public schools. The budget proposes to eliminate the funding for JOM grants. These grants are duplicative of other Federal and State assistance programs and do not address a focused goal for academic achievement. Eliminating the $16.4 million JOM grants allows BIA to realign funds and focus resources on the requirements of the BIA funded school system, while also reducing redundancy with other Federal programs.

Excerpt from the President's FY 2007 budget request regarding School Construction- The 2007 budget requests $157.4 million for school construction and repair, $49.3 million below the 2006 enacted level. Although a reduction from previous years, the budget will fund new projects while allowing the program to focus on building the schools already funded for construction. The President made a commitment to replace, rebuild, and repair facilities in the BIA funded school system to eliminate health and safety deficiencies. Between 2001 and 2006, $1.6 billion has been appropriated for the Indian education construction program. Of the 37 replacement schools funded between 2001 and 2006, 10 of these have been completed and another 19 are scheduled to be completed in 2006 and 2007. Of the 45 major facility improvement and repair projects funded between 2001 and 2006, nine have been completed and 25 are scheduled to be completed in 2006 and 2007.

In the 2007 budget request, the $36.5 million proposed for replacement school construction will complete funding for the Muckleshoot Tribal School in Washington and fully fund the Dennehotso Boarding School in Arizona. The education construction account also includes $41.3 million for facilities improvement and repair projects, and $50.5 million for annual maintenance.

The 2007 budget proposes a new budget subactivity, Replacement Facility Construction, to conform to the recommendations of the Inspector General's report on the use of facility and improvement and repair funds. This new subactivity will fund replacement of individual buildings on school campuses when entire new school facilities are not needed. It is more economically prudent to replace a structure that is classified as construction rather than facility improvement and repair. In 2007, the $26.9 million proposed for this subactivity will fund the replacement of four buildings.

Budget Programs within the Department of Health and Human Services - Labor H Bill

Department of Health and Human Services - Administration for Children and Families	2004	2005	2006	2007 Budget Req.	Change (%)
Head Start	6,774,848	6,843,114	6,843,114	6,786,000	-.84%
Native American Programs (Administration for Native Americans)	44,000	44,000	44,000	44,000	0%

Head Start - Provides comprehensive development services for low income children and families, emphasizing cognitive and language development, socio-emotional development, physical and mental health, and parent involvement to enable each child to develop and function at his or her highest potential. Currently, 2.9% of funds under the Head Start program are set aside for Indian Head Start programs.

Native American Programs in the Administration for Native Americans - The Native Languages and Preservation program under the Native American Languages Act Amendments of 1992 distributes grants under the following two categories: (1) Category I-Assessment Grants that are used to conduct the assessments needed to identify the current status of Native American languages; and (2) Category II-Design and/or Implementation Grants that are designed to implement preservation language projects.

Budget Programs within the Department of Education - Labor H Bill

Department of Education

Department of Education Indian Education, Education for the Disadvantaged, and Higher Education	2004	2005	2006	2007 Budget Req.	Change (%)
Indian Education (total)	120,856	119,889	118,690	118,700	0%
Grants to LEAs	95,933	95,165	95,331	95,300	0%
Special Programs	19,573	19,595	19,399	19,400	0%
National Activities	5,170	5,129	3,960	4,000	0%
Education for the Disadvantaged					
Education for Native Hawaiians	33,302	34,224	33,908	31,400	-7.9%
Alaska Native Education Equity	33,302	34,224	33,908	33,900	0%
Impact Aid	1,229,527	1,243,662	1,228,453	1,228,500	0%
Adult Education	590,233	585,406	579,552	579,600	0%
Pell Grants	12,006,738	12,594,425	12,745,922	12,986,009	1.8%
Grants to LEAs	12,342,000	12,739,000	12,730,000	12,713,000	0.13%
Rural Education					
Strengthening TCCUs	23,287	23,808	23,570	24,000	0%
Higher Education					
Strengthening Alaska Native and Native Hawaiian-serving Institutions	10,935	11,904	11,785	9,000	-30.9%
Tribally Controlled Postsecondary Vocation Institutions	7,185	7,440	7,366	7,400	0%

Indian Education

Grants to Local Education Agencies - These funds provide financial support to elementary and secondary school programs that serve Indian students, including preschool children. Funds are awarded on a formula basis to local educational agencies, schools supported and operated by the Bureau of Indian Affairs, and, in some cases, directly to Indian tribes.

Special Programs for Indian Children - Funds are used for demonstration grants to improve Indian student achievement through early childhood education and college preparation programs and for professional development grants for training Indians who are preparing to begin careers in teaching and school administration.

National Activities - Funds are used to expand efforts to improve research, evaluation, and data collection on the status and effectiveness of Indian education programs.

Education for the Disadvantaged

Education for Native Hawaiians - Funds provide supplemental education services to Native Hawaiians in such areas as family-based education, special education, gifted and talented education, higher education, curriculum development, teacher training and recruitment, and community-based learning.

Alaska Native Education Equity - Funds provide supplemental education services to Alaska Natives in such areas as educational planning, curriculum development, teacher training, teacher recruitment, student enrichment, and home-based instruction for pre-school children. Grants also go to organizations specified in the law.

Impact Aid - Funds provide financial assistance to school districts for the costs of educating children when enrollments and the availability of revenues from local sources have been adversely affected by the presence of Federal activities. Children who reside on Federal or Indian lands generally constitute a financial burden on local school systems because these lands do not generate property taxes -- a major revenue source for elementary and secondary education in most communities. In addition, realignments of U.S. military forces at bases across the country often lead to influxes of children into school districts without producing the new revenues required to maintain an appropriate level of education.

Adult Education - State Programs - Funds support formula grants to States to help eliminate functional illiteracy among the Nation's adults, to assist adults in obtaining a high school diploma or its equivalent, and to promote family literacy. A portion of the funds is reserved for formula grants to States to provide English literacy and civics education for immigrants and other limited English proficient adults.

National Institute for Literacy - Funds support the Institute's national leadership activities to improve and expand the Nation's system for delivery of literacy services.

National leadership activities - Funds support discretionary activities to evaluate the effectiveness of Federal, State, and local adult education programs and to test and demonstrate methods of improving program quality.

Pell Grants - Pell Grants are the single largest source of grant aid for postsecondary education. In 2006, more than 5 million undergraduates will receive up to $4,050 to help pay for postsecondary education. Undergraduate students establish eligibility for these grants under award and need determination rules set out in the authorizing statute and the annual appropriations acts. For 2007, the Administration is proposing to make Pell Grants available year-round for certain students at two- and four-year institutions, enabling these students to accelerate their educations to obtain their degrees more quickly. To further encourage students to promptly complete their education, the Administration is also proposing to limit Pell Grant eligibility to the equivalent of 18 semesters. Lastly, the Administration proposes to eliminate the Pell Grant award rule related to tuition sensitivity, which limits the amount of aid for needy students attending low-cost institutions.

Campus-based programs - Federal Supplemental Educational Opportunity Grants, Federal Work-Study, and Federal Perkins Loan programs are called "campus-based" programs because participating institutions are responsible for administering the programs on their own campuses. These programs provide aid administrators with considerable flexibility in packaging financial aid awards to best meet student needs.

Federal Supplemental Educational Opportunity Grants (SEOG) - Federal funds are awarded by formula to qualifying institutions, which use these funds to award grants to undergraduate students. While institutions have discretion in awarding these funds, they are required to give priority to Pell Grant recipients and other students with exceptional need. The Federal share of such grants may not exceed 75% of the total grant.

Federal Work-Study - Federal funds are awarded by formula to qualifying institutions, which provide part-time jobs to eligible undergraduate and graduate students. Hourly earnings under this program must be at least equal to the Federal minimum wage. Federal funding in most cases pays 75% of a student's hourly wages, with the remaining 25% paid by the employer. The Federal Work-Study program also requires participating institutions to use at least 7% of the total funds granted to compensate students employed in community service jobs.

Perkins Loan Program - Institutions award low-interest loans from Federal revolving funds held at institutions, which are comprised of Federal Capital Contributions, institutional matching funds, and student repayments on outstanding loans.

Perkins Loan Program - The Department of Education reimburses Federal revolving funds held at institutions for cancelled Perkins loans. Under the Higher Education Act, borrowers are eligible to have some or all of their Perkins loan repayment obligations cancelled if they enter certain fields of public service after graduation. Perkins loan balances are also cancelled in the event of a borrower's death or total and permanent disability. In general, the revolving funds are reimbursed for 100% of the principal and accrued interest of the loan cancelled.

Grants to Local Education Agencies - Commonly know as the "Title I" program, financial assistance under this account flows to school districts by formula, based in part on the number of school-aged children from low-income families. Within districts, local school officials target funds on school attendance areas with the greatest number or percentage of children from poor families. Local school districts develop and implement their own programs to meet the needs of disadvantaged students. By statute, 1% of these funds are set aside for the BIA and outlying areas.

Rural Education - The Rural Education Achievement authority funds two separate programs that assist rural school districts in carrying out activities to help improve the quality of teaching and learning in their schools. The Small, Rural School Achievement program provides formula funds to rural school districts serving small numbers of students, and the Rural and Low-Income School program provides formula grants to States, which have the option of suballocating funds to high-poverty rural districts competitively or by formula. Each program receives one-half of the appropriation. The request would maintain support for small, often geographically isolated rural districts that face special challenges in implementing NCLB.

Higher Education

Strengthening Alaska Native and Native Hawaiian-Serving Institutions - The purpose of this program is to improve and expand the capacity of institutions serving Alaska Native and Native Hawaiian students. Funds may be used to plan, develop, and implement activities that encourage: faculty and curriculum development; better fund administrative management; renovation and improvement of educational facilities; student services; and the purchase of library and other educational materials. The Appropriators have encouraged the Department of Education to use simplified application forms to permit participating institutions to obtain continued funding for successful programs funded under this program.

Strengthening Tribally Controlled Colleges and Universities - Tribal colleges and universities rely on a portion of the funds provided to address developmental needs, including faculty development, curriculum and student services.

Tribally Controlled Postsecondary Vocational Institutions - This program provides grants for the operation and improvement of two tribally controlled postsecondary vocational institutions to ensure continued and expanded opportunities for Indian students at United Tribes Technical College in Bismarck, North Dakota, and Crownpoint Institute of Technology in Crownpoint, New Mexico.

Tribal Education Departments National Assembly

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REPORT to the NATIONAL INDIAN EDUCATION ASSOCIATION
Regarding Recommendations for Tribal Education Department Provisions in the reauthorization of the Elementary and Secondary Education Act, also known as the No Child Left Behind Act
February 12, 2006

A. INTRODUCTION

Since it was first enacted in 1965, Pub. L. No. 89-10, the Elementary and Secondary Education Act (ESEA) has come to encompass most of the federal education programs that serve tribal students. The ESEA also has several provisions that are specific to "Tribal Education Departments (TEDs)." The current incarnation of the ESEA is of course known as the No Child Left Behind (NCLB) Act of 2001, Pub. L. No. 107-110.

The Tribal Education Departments National Assembly (TEDNA) appreciates the very dedicated and capable work of the National Indian Education Association (NIEA) over the years in protecting and improving all of the many ESEA / NCLB provisions regarding Indian education, and in particular the provisions regarding TEDs. As we all prepare for the next reauthorization of the ESEA / NCLB, TEDNA supports generally the recommendations of NIEA, and offers NIEA the following four specific recommendations regarding TED provisions.

B. RECOMMENDATIONS

1. RETAIN THE TWO AUTHORIZATIONS FOR TRIBAL EDUCATION DEPARTMENT APPROPRIATIONS, INCREASE THE BIA AUTHORIZATION'S AMOUNT TO $5 MILLION, AND REINSTATE AN AMOUNT OF $5 MILLION IN THE U.S. DEPARTMENT OF EDUCATION'S AUTHORIZATION

The programs authorizing appropriations for TEDs are among the most recent and innovative efforts of Congress to provide for and support tribal sovereignty over education. Congress has authorized TED appropriations in two separate laws:

1) In 1988 Congress authorized appropriations for TEDs within the BIA budget of the U.S. Department of the Interior (Pub. L. No. 100-297, Section 5199); and

2) In 1994 Congress authorized appropriations for TEDs in the budget of the U.S. Department of Education (Pub. L. No. 103-382, Section 9125).

Both of these authorizations are retained in NCLB. The BIA authorization is in NCLB Title X, Section 1140, currently codified at 20 U.S.C. Sec. 2020(a). The Department of Education authorization is in NCLB Title VII, Section 7135, currently codified at 20 U.S.C. Sec. 7455.

The best reason to keep these program authorizations is stated aptly in the authorizations themselves. In the authorizations, Congress envisions TEDs as facilitating tribal control over education; coordinating education programs; developing and enforcing tribal education codes, policies, and standards; and, providing support services and technical assistance to schools and programs. Although no appropriations have been made to date under these authorizations, well over one hundred federally recognized tribes today have TEDs.

Almost thirty years ago (1977) the American Indian Policy Review Commission recommended that Impact Aid funds should go directly to eligible tribes. It is time for the Administration and Congress to consider seriously this recommendation. Tribes with functioning TEDs or TEAs could administer directly the Impact Aid funds; other tribes could enter into cooperative agreements with LEAs to administer them, or they could subcontract their administration to LEAs.

Under this arrangement, tribes would have leverage in addition to or beyond the underutilized (and therefore ineffective) Impact Aid administrative complaint provisions to achieve the goals of the law as stated in the IPP provisions It would also bring this over fifty-year-old program in line with the modern federal policy of Indian self-determination and control over education.

4. CONGRESSIONAL AUTHORIZATION FOR TRIBAL-STATE COMPACTS IN EDUCATION GOVERNANCE

Controversies and differences between tribes and states about governance over various matters -- from non-renewable natural resources to taxation and law enforcement -- are a familiar chapter in tribal-state relations. In many such instances, tribes and states have successfully resolved governance and other issues through negotiated inter-governmental compacts or agreements.

For example, at this time there are about 250 tribal-state gaming compacts. There are about eighteen tribal-state water rights compacts, with another eighteen in active negotiations. There are perhaps hundreds of taxation and law enforcement compacts between tribes and states or tribes and state local units of government.

Both TED appropriations authorizations should be retained in the next ESEA reauthorization. The only amendments should be to the authorization amounts. The amount in NCLB for the BIA authorization is $ 2 million; ***this should be increased to $5 million***. NCLB eliminated any amount for the Department of Education authorization, but the original amount in 1994 was $3 million. ***This authorization amount should be reinstated and increased to $5 million.*** The increased amounts better reflect the current needs of TEDs.

2. INCREASE THE ELIGIBILITY OF TRIBES TO BE GRANTEES FOR TITLE VII FORMULA GRANTS

The Formula Grant Program was the cornerstone of the original Indian Education Act (IEA) in 1972, Pub. L. No. 92-318. Today the IEA Formula Grant Program is in NCLB at Title VII, Sections 7111 -7119, currently codified at 20 U.S.C. Secs. 7401-7546. It is a $96 million supplemental discretionary grant program administered by the Office of Indian Education within the U.S. Department of Education.

Eligible applicants for the IEA Formula Grants program primarily are state public school districts, also known as "Local Education Agencies (LEAs)." BIA-supported schools are eligible under a Formula Grants special set aside allocation. In addition, since 1994, with the passage of Pub. L. No. 103-382, tribes have been eligible to receive Formula Grants directly where they represent at least fifty percent (50 %) of the eligible Indian children served by an LEA and the LEA does not establish an elected parent committee under this program. *See* Section 7112(c) of NCLB, Title VII, codified at 20 U.S.C. Sec. 7422(c).

The eligibility of tribes to receive Formula Grants should be increased by lowering the representation percentage to thirty-three percent (33%) at least

where a tribe has a functioning TED or a suitable equivalent tribal education authority (TEA). NCLB most recently has affirmed that the Formula Grants are intended to benefit the unique educational and culturally related academic needs of tribal students, and as between LEAs and tribes, common sense dictates that tribes are in the better position to identify, understand, and address these needs. Hence there is little reason to continue to by-pass or avoid so many TEDs or TEAs in favor of LEAs.

3. AUTHORIZE TRIBES TO BE ELIGIBLE GRANTEES FOR TITLE VIII IMPACT AID GRANTS.

The Impact Aid Basic Support Program for Eligible Federally Connected Children was originally authorized by the Act of September 30, 1950, Pub. L. No. 81-874. Portions of it are in NCLB Title VIII, Sections 801-805, and it is currently codified at 20 U.S.C. Secs. 7701-7713a. Over $1 billion in Impact Aid grants are administered by the Impact Aid Program Office within the U.S. Department of Education.

Impact Aid grants are available only to eligible LEAs; they are not available to tribes. Impact aid grants go directly into the general operating budgets of LEAs and are to be used for basic education programs. Since 1978, however, LEAs who claim children residing on Indian lands under this program must establish "Indian Policies and Procedures (IPPs)." The IPPs must ensure that there is equal participation by tribal students in; consultation with Indian parents and tribes regarding; and, opportunities of Indian parents and tribes to make recommendations about the LEAs' education programs and activities. A statutory administrative complaint process allows tribes a federal agency (U.S. Department of Education) hearing and determination if they feel the LEAs are not in compliance with the IPP provisions.

But there are only a handful of tribal-state compacts in education, such as those between the State of New Mexico and various tribes regarding the teaching of tribal languages in the public schools there. The agreements in New Mexico are quite recent and were prompted by the cutting-edge New Mexico Indian Education Act of 2001.

If the Administration and Congress are serious about improving Indian education, let alone achieving the goals of Indian self-determination and tribal sovereignty, it is time for them to consider authorizations and guidelines for Tribal -- State Compacts in Education Governance. Good possible pilot projects in this area would include fashioning authorizations and guidelines for such agreements between tribes and the LEAs that receive large amounts of Impact Aid as discussed above under Recommendation Three, or in the matter of teaching native languages and the certification of native languages perhaps pursuant to the policies and provisions of the Native American Languages Acts of 1990 and 1992 (Pub. Ls. Nos. 101-477 and 102-524).

The federal government need not wait for states such as New Mexico to take the lead on this. Rather, as federal reports including *The Indian Nations at Risk Task Force Report* (1991) and *The White House Conference on Indian Education Final Report* (1992) have recommended, the national government should play a leadership role in encouraging and providing for such intergovernmental partnerships. Surely tribal students are no less an important resource to this country than are economic revenues and natural resources.

For questions about or a copy of this Report
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Recovery and Preservation of Native American Languages Through Native Language Immersion Programs

Crisis Loss of Native Languages. In Native communities across the country, Native languages are in rapid decline. It is estimated that only twenty indigenous languages will remain viable by the year 2050. Given the rapid pace of deterioration of Native languages, it is a race against the clock to save Native languages. Accordingly, NIEA has made Native language recovery and preservation one of its highest priorities.

Solution to the Crisis. The key to stemming the loss of Native American languages is by significantly increasing support for Native American language immersion programs. It is well proven that language immersion programs are one of the few effective ways to create fluent speakers in Native languages. Further, data shows that Native students who go through an immersion program perform substantially better academically than Native students who have not gone through such a program.

Accordingly, NIEA proposes several measures designed to strengthen the role of Native American language immersion programs in the Native American Languages Act (NALA). Enacted in 1990, NALA reversed the federal government's previous policy of eliminating Native American languages and, instead, established a federal policy to preserve, protect, and promote the rights and freedoms of Native Americans to use, practice, and develop Native American languages. In 1992, the Congress amended NALA to create a Native American languages grant program within the Administration for Native Americans (ANA) in the Administration for Children and Families, U.S. Department of Health and Human Services.

NIEA proposes a two-pronged approach: (1) seeking increases in federal funding for Native American language immersion programs in ANA; and (2) advocating for and supporting federal legislation that would amend NALA to provide increased support for Native American language immersion programs.

Seeking Increases in Federal Funding for Native Language Immersion Programs. NIEA has met with the White House, Congressional Appropriators, and Senate and House Appropriations Committees staff to advocate for an increase in federal funding for Native American language immersion programs. Currently, the only federal agency that provides grants for Native American language immersion programs is ANA. For FY 2004, ANA, which had a total budget of $45 million, provided $3.9 million in language grants to 33 native grantees. Of this $3.9 million, only about 10% went to actual immersion programs. For FY 2005 and FY 2006, the funding numbers for ANA and for Native American language grants were comparable to the funding numbers for FY 2004. The Administration's FY 2007 budget proposal requests similar funding amounts.

Although the existing ANA language program is valuable, it is critical that this program be expanded to specifically support existing immersion schools and programs as well as a development effort for new schools and programs. NIEA is requesting an additional $6 million in the FY 2007 Labor, HHS, Education appropriations bill for existing and start-up immersion programs over and above the $3.9 million currently allocated for Native language programs, for a total language budget of $9.9 million. In the alternative, NIEA is requesting that ANA make Native language immersion programs a priority so that more funding is allocated to Native American language immersion programs within ANA.

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Head Start Reauthorization

Congress is working on the re-authorization of Head Start, including the Indian Head Start program.

Both the Senate and House Head Start Bills contain excellent provisions on Indian Head Start – *but on funding the House bill is considered better*. After much hard work by NIEA, in coordination with the National Indian Head Start Directors Association, both the Senate bill (S. 1107) and the House bill (H.R. 2123), and their accompanying reports, contain numerous positive provisions for Indian Head Start. However, on funding, the House bill would immediately increase the set-aside for Indian Head Start to 3.5%, *a boost of $40 million/year*. The Senate bill purports to increase the set-aside to 4%, but essentially only if new funding becomes available, a very uncertain prospect. **The Indian Head Start community supports the certain funding increase in the House bill over the uncertain increase in the Senate bill.**

These issues will be resolved in conference between the House and the Senate. The House has passed its legislation; the Senate legislation is awaiting floor action but stalled over issues unrelated to Indian Head Start. Once the Senate passes its bill, the House and Senate staff will immediately begin work on reconciling the differences between the bills.

Additionally, the Congress has uncovered that, in apparent defiance of the law, the Department of Health and Human Services has for the last few years been inappropriately transferring money out of the set-aside that funds Indian Head Start in order to expand non-Indian Head Start programs. This has cost Indian Head Start hundreds of millions of dollars and should be redressed.

Please urge your Senators and Members of Congress to support the Indian Head Start provisions in these bills and, in particular, the House funding provision. Please tell them that the leadership of the Senate Health, Education, Labor and Pensions Committee and the leadership of the House Education and the Workforce Committee have done a great job with regard to Indian Head Start provisions, but also that it is essential that they support the House funding mechanism which guarantees an immediate increase for this crucial program.

February 10, 2006

President George W. Bush
The White House
1600 Pennsylvania Ave. NW
Washington, DC 20500

Dear Mr. President:

On behalf of our nation's community, migrant, homeless and public housing health centers and the more than 15 million patients they serve, I want to thank you for your ongoing support of the Health Centers program, most recently in the proposed increase for Health Centers in your budget for Fiscal Year 2007. However, I also want to share NACHC's concern over the proposed elimination of the Urban Indian Health Program (UIHP) within the Indian Health Service (IHS) at the Department of Health and Human Services (HHS).

While NACHC supports the administration's efforts to reduce programmatic redundancies and inefficiencies in the budget, it is our strong belief that Community Health Centers (CHCs) and Urban Indian Health Organizations (UIHOs) currently serve a complementary role in the provision of primary care services to underserved communities. Further, we believe that elimination of the UIHP would be detrimental to the operations of health centers in the 34 communities currently served by Urban Indian Health Organizations. UIHOs provide certain unique services not available at the typical community health center and the two entities often serve different populations in different communities. The expansion of the Health Centers program proposed in the FY2007 budget is not designed to meet the needs of the more than 1 million American Indians / Alaska Natives (AI/AN) currently living in communities served by the UIHP.

Urban Indian Health Organizations provide unique, culturally relevant care to the specific populations they serve, and as a result are very successful at engaging AI/AN populations in their long term care. Examples of these services include traditional AI/AN healing methods, culturally competent behavioral and mental health services, and outreach activities targeted toward AI/AN populations. In addition, UIHOs have community advisory groups that provide input on proposed services to ensure they are appropriate for AI/AN populations.

The budget request makes the suggestion that those patients treated at Urban Indian Health Organizations can find the primary care services they need at community health centers. Unfortunately, of the 34 Urban Indian Health Organizations currently in operation only 5 receive grant funding under the current Health Centers grant program. Because of the highly competitive nature of the federal grant funding, even with the full increase requested in your budget is would be very difficult for even the majority of these organizations to be awarded

Health Center grant funds should the UIHP be eliminated. Furthermore, according to IHS' own most recent estimates, current funding levels for the 34 UIHOs currently in operation only meet 22% of the projected need for primary care services. IHS has identified 18 additional cities with AI/AN populations large enough to support an UIHO. To pursue elimination of Urban Indian Health Programs because of an increased investment in the Health Centers program would prove harmful to both programs and the communities they serve today.

As the budget process moves forward, NACHC urges Congress and the Administration to work to expand access to primary health care services for all underserved Americans. Thank you for your attention to this matter.

Sincerely,

Daniel R. Hawkins, Jr.
Vice President for Federal, State, and Public Affairs

cc:
Sen. John McCain, Chairman, U. S. Senate Committee on Indian Affairs
Sen. Byron Dorgan, Vice-Chairman, U.S. Senate Committee on Indian Affairs

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S. HRG. 109–000

NOMINATION

HEARING

BEFORE THE

COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

ON

S. 000

CONFIRMATION HEARING OF THE NOMINEE

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