

Testimony of Andy Teuber
Chairman/President, Alaska Native Tribal Health Consortium
President/CEO, the Kodiak Area Native Association

House Committee on Appropriations
Subcommittee on Interior, Environment, and Related Agencies
March 23, 2010

Good afternoon Chairman Moran, Ranking Member Simpson and members of the Committee. My name is Andy Teuber, I am the Chairman and President of the Alaska Native Tribal Health Consortium (ANTHC) and the President and CEO of the Kodiak Area Native Association (KANA). For the FY 2011 Indian Health Service (IHS) budget we are requesting a \$15 million increase for dental health, \$10 million for a child abuse and neglect prevention initiative, an \$81 million increase in contract support costs, and an \$83 million increase for facility operational needs.

ANTHC is a statewide tribal health organization that serves all 229 tribes and over 135,000 American Indian and Alaska Natives (AI/AN) in Alaska. ANTHC and Southcentral Foundation co-manage the Alaska Native Medical Center (ANMC), the tertiary care hospital for all AI/ANs in Alaska. ANTHC also carries out virtually all non-residual Area Office functions of the IHS that were not already being carried out by Tribal health programs as of 1997.

KANA is a non-profit Tribal organization formed in 1966 to provide health and social services to AI/ANs in the Kodiak Island Area. The KANA service area includes the City of Kodiak and six Alaska Native villages: Akhiok, Karluk, Old Harbor, Ouzinkie, Port Lions, and Larsen Bay. ANTHC and KANA are both self-governance tribal organizations that compact with IHS to provide health services to AI/ANs under the authority of the Indian Self-Determination and Education Assistance Act, P.L. 93-638.

My testimony addresses the areas of deficiency in the IHS budget. I extend an invitation to members of this Committee to visit Alaska to see first-hand, the many successes we have been able to achieve in providing high quality health services throughout rural Alaska with its challenging environment. Such successes include our advanced, statewide telehealth network, community health aide program, numerous sanitation facilities construction projects, and the Alaska Native Medical Center, Alaska's only Level II Trauma Center.

All of the IHS budget items work together to achieve the objective of providing the best quality care possible to AI/ANs. Increases in the clinical and preventive services portions of the IHS budget are necessary, but their full value cannot be realized if other portions of the budget that provide essential support for those services are not adequately funded. Before health care can be delivered, many things have to be in place. For example, there must first be safe, adequately maintained facilities, suitable medical equipment and supplies, telephones, trained support personnel, and so on.

I. Oral Health

As a dentist, Ranking Member Simpson certainly is aware of the importance of good dental health to overall health. Indian Country faces considerable oral health problems. American Indians and Alaska Natives, especially children, continue to be plagued by oral health disparities. Alaska Native children suffer a dental caries rate of 2.5 times the national average. For AI/AN

children ages 2-4 the rate of tooth decay is 5 times the U.S. average. An astounding 79% of AI/AN children ages 2-5 have tooth decay, 60% of which are severe caries. One-third of school-aged children have missed school because of dental pain. Far too many have needed surgery to remove many or all of their baby teeth.

Due to the high cost of travel in rural Alaska, just one operating room dental case for a child with early childhood dental caries can cost up to \$7,000. An increase in appropriations for IHS dental health aimed at oral health promotion and disease prevention activities is a sound investment for improving the oral health of AI/AN children, but is an even better investment in reducing future oral health care costs.

Increases for dental health in the IHS budget the past few years have barely been sufficient to maintain the current service levels, which are grossly inadequate to meet the needs of Indian Country. A substantial program increase is warranted to address this issue and we request a 10%, or \$15 million, increase for dental health to be used for community oral health promotion and disease prevention which is essential to long-term improvement of the oral health of AI/ANs.

II. Child Abuse and Neglect

Alaska has the highest reported, substantiated incidence of child abuse and neglect in the United States. The Alaska Department of Health and Social Services has reported that children in Alaska suffer abuse at six times the national average. Alaska Native children suffer disproportionately: Although less than 20% of the population, 45% of the reports to the Alaska Office of Children's Services and 51% of the incidents of abuse and neglect that Office substantiated in 2009 involved Alaska Native children. Approximately 75% of abused and neglected children are under 10 years of age.

The funding of the Domestic Violence Prevention Initiative in FY 2009 at \$7.5 million and \$10 million in FY 2010 was a great step in addressing the pressing domestic violence prevention needs in Indian Country. We would like to see a similar program instituted to address the equally important need for the prevention of child abuse and neglect and request that \$10 million be provided for a Child Abuse and Neglect Prevention Initiative.

III. Contract Support Costs

In addition to the health care allocation, an essential element to the success of self-determination and self-governance is full funding for Contract Support Costs (CSC). I would like to thank this Committee for its commitment to addressing this important issue and the \$9 million increase for CSC that this Committee added to the President's budget request last year.

Indian tribes and tribal organizations are the only federal contractors that do not receive full CSC. There is a clear obligation on the part of the federal government to fully fund CSC. But more importantly, lack of full funding for CSC has a very real and detrimental impact on our programs that are already substantially underfunded. CSC is used to pay for items that we are required to have but are not otherwise covered by the IHS budget either because another governmental department is responsible or because the IHS is not subject to that particular requirement. Examples include federally-required annual audits and telecommunication systems. We cannot operate without these things, so when CSC is underfunded we have to use

other program funds to make up the shortfall which means fewer providers that we can hire and fewer types and quantity of health services that we can provide to our patients.

From 2002 to 2009, while there were virtually no increases for IHS CSC appropriations, the level of tribal CSC need increased by over \$130 million. During that period, as our fixed costs increased every year, all major tribal health programs in Alaska were forced to layoff staff due to lack of funds.

With full funding of our CSC needs, ANTHC would be able to fill scores of support positions, such as enrollment technicians, financial analysts, medical billing staff, professional recruiters, maintenance technicians, security officers, information technology support and professional support staff.

Thanks to this Committee there was a substantial increase for IHS CSC in FY 2010. However, even with that increase IHS CSC is still only funded at 80% of the full funding our contracts require. We request an increase of \$150 million for CSC in order meet the full IHS CSC requirement. If that is not possible given the current financial environment, we would like to see full funding for CSC within three years. To accomplish this, based on the latest data available, it would require an increase of approximately \$81 million in each of the next three years.

IV. Facility Operational Needs

When addressing facility needs, it is important to look beyond new construction. In order for existing facilities to remain functional and provide maximum use, it is also important to adequately fund Medical Equipment Replacement, Facility and Environmental Support, Maintenance and Improvement and the Village Built Clinic Lease Program. Adequate funding for these programs will ensure that the facilities we build today will be available for continued use into the future. Thus, we recommend an increase of \$83 million for these needs as more specifically described below.

A. Medical Equipment Replacement

In order to assure patient safety, the industry standard for the replacement of medical equipment is an average of every 6 years. Unfortunately, current IHS medical equipment funding levels cover only one-third of the level of need. Thus, equipment that should have been replaced after 6 years often continues to be used for 18 years or longer. Medical equipment maintenance and replacement presents obvious patient safety issues, and some tribes are forced to divert funds from direct patient care to make up this gap. This year medical equipment funding is \$22.7 million, when the annual need is actually \$68 million. We request a \$45 million increase for medical equipment.

B. Facility and Environmental Support Funding

Facility and Environmental Support (FES) funding provides for the maintenance staff and basic operations of health facilities, including utilities. These funds also pay for Area office programs, like core staffing for health facilities, environmental health, and sanitation construction.

The level of funding has stayed relatively flat or received small increases (less than 2%). Funding for FES has not kept up with the rising cost of salaries and double digit annual increases

in energy costs. We recommend that an increase of \$5 million annually for FES to meet the current national need.

C. Maintenance & Improvement

Maintenance and Improvement (M&I) funds are used to maintain facilities so they can continue to be used in the future. Unfortunately, the level of M&I funding is substantially lower than what is needed. It is estimated that the base M&I funding needed to just sustain the facilities in their current condition should be \$80 million annually. Because funds have not kept pace with the need, there is a tremendous backlog of maintenance needs. In October 2009, IHS estimated \$476 million was needed just to get caught up.

Failing to maintain existing facilities will only hasten the need for new construction. Health programs with existing facilities have tremendous and growing maintenance and improvement needs especially those with older facilities. We recommend that the M&I appropriation be increased by \$26 million to sustain existing facilities and to address the over \$476 million backlog of maintenance and improvement issues.

D. Village Built Clinic Lease Program

The Village Built Clinic (VBC) Lease Program funds rent, utilities, insurance, janitorial, and maintenance costs of healthcare facilities in villages in rural Alaska. Despite an increase in the number and size of clinics throughout Alaska as well as the rapidly increasing fuel costs, funding for the VBC Lease Program has barely increased since 1996. Current funding for leases covers less than 60% of the current operating costs and those costs are expected to continue to increase sharply as energy costs continue to skyrocket in rural Alaska.

Without additional funding for the VBC Lease Program, Alaska villages will be increasingly forced to reduce clinic operations and defer long term maintenance and improvement projects. This situation reduces the health care available locally to village residents and threatens the nearly \$200 million investment in these facilities by the federal government, Alaska villages, and the regional tribal health organizations in the Alaska Native health care system.

Thus, we recommend an increase of \$7 million in funding for the VBC Lease Program to the current program base of the VBC Lease Program. These funds are required immediately to sustain the program, covering the expected operating costs in FY 2011 as well as establishing funding for long-term maintenance and improvement. Without this funding, many of Alaska's villages will not be able to continue supporting local clinics, eventually leading to serious consequences for the health and safety of Alaska Native people.

On behalf of ANTHC, KANA and myself, I thank you for providing me the opportunity to testify today and highlight some of the most urgent needs for AI/ANs. I appreciate your consideration of our recommendations for additional funding to improve the level, quality and accessibility of desperately needed health services for AI/ANs whose health care status continues to lag far behind other populations in Alaska and in this Nation, and for giving special consideration to addressing the tragedy of child abuse with a Child Abuse and Neglect Prevention Initiative. I would be happy to provide any additional information the Committee may find helpful on these issues.

**Hearing before the House Appropriations Committee
Subcommittee on Interior, Environment and Related Agencies
On Native American Issues
March 23, 2010**

**Testimony of Katherine Gottlieb, M.B.A.
President/Chief Executive Officer, Southcentral Foundation**

My name is Katherine Gottlieb. I am the President and Chief Executive Officer of Southcentral Foundation in Alaska. Southcentral Foundation is a Tribal organization that compacts with the Secretary of Health and Human Services under Title V of the Indian Self-Determination Act to carry out various programs of the Indian Health Service. In doing so, Southcentral Foundation acts pursuant to Tribal authority granted by Cook Inlet Region, Inc., an Alaska Native regional corporation. Southcentral Foundation has carried out IHS programs under Self-Determination Act agreements for more than 25 years.

In accordance with its compact with the IHS, Southcentral Foundation currently provides medical, dental, optometric, behavioral health and substance abuse treatment services to over 45,000 Alaska Native and American Indian people living in the Municipality of Anchorage, the Matanuska-Susitna Borough, and nearby villages. Southcentral Foundation also provides services to an additional 13,000 residents of 55 rural villages throughout Alaska, covering an area of over 100,000 square miles. Southcentral Foundation employs more than 1,400 people to administer and deliver these critical healthcare services.

This Committee approved a historic increase in “contract support cost” appropriations for FY2010, for which Southcentral Foundation is deeply appreciative. I requested the opportunity to testify today so that I could strongly urge this Committee and the Congress to fully fund Tribal contract support costs for FY 2011.

As this Subcommittee is well aware, for many years the IHS has underfunded the federal government’s contract support cost obligations to the Tribes and Tribal organizations that operate IHS clinical facilities and other healthcare programs. For Southcentral Foundation, the result has been severe, as I will explain.

The majority of Southcentral Foundation’s contract support costs are comprised of fixed overhead costs that are determined by an indirect cost rate that is approved by the Department of Health and Human Services’ Division of Cost Allocation. The remainder of the contract support costs is set directly by the IHS through negotiations. Together, these are the fixed costs that Southcentral Foundation actually incurs every year. These costs are independently audited each year by Certified Public Accountants, as required by law, and the results of those audits are used to recalculate our fixed contract support costs in future years.

Even though OMB circulars require the IHS to honor these costs, and despite the fact that the Indian Self-Determination Act mandates that full contract support costs must be added “in full”

to Southcentral Foundation's Self-Governance compact, historically, the IHS has never fulfilled those obligations, due to insufficient contract support cost appropriations. Historically, the IHS has also never met its obligation to inform Congress mid-year of the amounts it owes Southcentral Foundation, and it has never requested supplemental appropriations to address those shortfalls. Instead, the IHS has adopted a practice of issuing its shortfall reports one year late, long after Congress can do anything about it through the supplemental appropriations process.

While I appreciate that contract support cost shortfalls are partly the result of fiscal constraints, those constraints should not fall disproportionately on a Tribal organization like Southcentral Foundation. On the one hand, when fiscal considerations lead Congress to underfund a program, the burden of that decision is shared equally between the IHS-operated portion of the healthcare delivery system and the Tribally-operated portion of that same system. But when budgetary considerations lead to reduced funding for contract support costs, Tribes and Tribal organizations like Southcentral Foundation bear the full brunt of the funding reduction because parallel programs that remain under IHS operation are entirely protected from those funding decisions. Thus, the contract support cost shortfall disproportionately balances budgetary constraints on the backs of Tribal contractors alone. If Congress is going to cut budgets or limit budget increases, fairness demands that such actions occur in portions of the budget that are shouldered equally by the IHS and Tribal organizations like Southcentral Foundation.

I want to strongly emphasize that contract support costs cover Southcentral Foundation's critical infrastructure. They cover federally-mandated costs such as annual independent audits, and they also cover items such as liability and property insurance, worker compensation insurance, and even payroll systems. We have to buy insurance. We need to make payroll. They also cover the purchase of supplies, as well as the costs to track property and equipment. If contract support cost appropriations are not provided, Southcentral Foundation is left with no choice but to make up the difference through staffing and service reductions. As a result, the shortfall has had a direct impact on employment – or rather, unemployment. In short, contract support cost shortfalls mean lost jobs.

At even a high estimate of \$100,000 per average full-time equivalent employee, every \$1 million loss in our contract support cost payments initially costs Southcentral Foundation 10 jobs. But for Tribal organizations like Southcentral Foundation, who have agreements with the IHS, the impact is even worse, since the reduction in services also means a reduction in revenues from Medicare, Medicaid and other third-party insurers and payers. Therefore, the true job loss for Southcentral Foundation is over 20 positions.

But Southcentral Foundation's loss is far more than \$1 million. After FY 2008 closed, the IHS calculated our contract support cost requirement at \$25.5 million, yet it left Southcentral Foundation short by approximately **\$10.7 million**. The impact of such a large shortfall on jobs was stunning, and it severely constrained our ability to meet the healthcare needs of the Alaska Native and American Indian population in our service area. Southcentral Foundation lost the ability to hire doctors, nurse practitioners, home health workers, psychiatrists, mental health clinicians, dentists, dental hygienists, optometrists, pharmacists, and substance abuse counselors – and I could list many more. Things only got worse in FY 2009, when Southcentral Foundation lost another \$12.8 million, out of a \$28.3 million contract support cost requirement.

As I mentioned at the start of my testimony today, Southcentral Foundation is very grateful for this Committee's approval of a historic increase in contract support cost appropriations for FY 2010. Thanks to Congress's committed support, in the next few weeks Southcentral Foundation expects to receive a significant increase – although we will still be left with a multi-million dollar shortfall. While Southcentral Foundation will use the new funding we receive to fill several job vacancies, as a result of the continuing shortfall, many other positions will remain unfilled going into FY 2011.

In May 2009, the IHS projected an approximate \$150 million nationwide shortfall for all FY 2011 contract support cost requirements. While the President's proposed budget increase of \$46 million for the IHS is a significant step in the right direction, this amount is obviously insufficient to meet current requirements and will leave an unfunded contract support cost shortfall of \$105 million. In fact, the increase is barely enough to cover the added contract support cost requirements associated with the budgeted program increases, and does not devote even one penny to reducing the historic backlog in contract support cost underpayments. Clearly, far more must be done to meet the government's obligation to fully fund the contracts it has awarded to Southcentral Foundation and to all the other Tribes and Tribal organizations in the Nation.

I am here today to ask Congress to increase the President's FY 2011 budget request for contract support costs from \$45 million to \$150 million. To the extent appropriating this larger amount is not possible, Southcentral Foundation requests that the Committee make a commitment to eliminating the remaining shortfall over a defined and relatively short period of time. For example, if the Committee added \$35 million to the \$45 million already requested by the President, for a total of \$80 million, in 3 years the existing shortfall would be eliminated. As a critically-needed side benefit, 100% of these funds would go into the creation of good jobs -- at a time of severe stress in the Nation's economy – thereby increasing employment in some of the most depressed parts of the United States.

The bottom line is this: contract support costs mean jobs, and Southcentral Foundation is anxious to fill as many vacant positions as possible, as soon as possible. If, as we project, Southcentral Foundation were to receive \$4 million out of an additional \$80 million increase above the President's request, we would eventually create 100 jobs from that funding and the associated increase in third-party revenues that Southcentral Foundation would collect. In short, the IHS needs Congress' help to honor the agency's contracts. If that help can come, whether in 1 year or in 3, Southcentral Foundation will be able to substantially restore healthcare services in the greater Anchorage area to their originally budgeted levels and, by doing so, significantly increase local employment.

Thank you for granting me the opportunity to testify on this critical issue on behalf of Southcentral Foundation.

TESTIMONY
OF
HERMES MOUSSEAU, OGLALA SIOUX TRIBE
March 22, 2010

Good Moring Mr. Chairman: My name is Hermes "John" Mousseau and I am a member of the Oglala Sioux Tribal Council and the Tribe's Judiciary Committee Chairman. I am also a former Tribal Police Officer. President Two Bulls regrets that she is not able to present this testimony in person, but we have some emergency situations at home that require her presence. I will focus my oral testimony on just a few very pressing items. Because our law enforcement and tribal court are in extreme need of attention, I will start with those two programs, but before doing so, let me refresh your memory about Oglala.

Our Pine Ridge Reservation is about the size of the State of Rhode Island, making us the second largest reservation in the United States. We have an on-reservation population of around 55,000, with another 20,000 coming on and off our reservation every day. We are located in one of the three poorest counties in the United States. Our unemployment rate ranges around 80% and our per capita income for a family of four is still around \$7,500. Criminal jurisdiction over offenses involving Indians is federal and tribal. The State police does not patrol our reservation.

Our 911 system receives around 77,000 calls per year for police service, and those calls are answered by our 50 officers. That means we average around 15 officers a shift. Given our size, this can make our response time almost an hour, even in cases of violent crime. While the BIA's own studies say that we need 110 officers on our reservation, today we are only able to afford 50 officers on the amount that the BIA provides. This is true even though our salaries are far lower that those offered by the BIA to its own officers, and even though we provide no medical insurance and only a fraction of the benefits BIA officers receive. BIA regulations state that tribal law enforcement officers employed under a P.L. 93-638 should be paid salaries equal to those paid to BIA Officers, but given our BIA budget, we are left with the terrible choice of cutting our police force to pay a decent wage to our officers or keeping our 50 officers at below a real living wage. We have officers that have been with us 10- 20 or more years, who have never had a real salary increase since they started.

Not only is our response time ridiculously slow, our shortage of officers means that each one of them has to work alone, with back up at least 30 minutes away. On a reservation with as much violence, alcoholism, drugs and gangs as ours, this is an extremely dangerous situation, and a number of officers are injured on the job every year. I myself was shot in the line of duty and the officer who responded to my calls for help did not arrive for almost a half an hour. I know that some of the members of this Subcommittee have been in combat, and I am sure that they can all attest to the fact that 30 minutes is a very long time to wait for help when you are wounded and your life is still being threatened.

Mr. Chairman, while we appreciate the increases that this Subcommittee has provided to the law enforcement program over the past few years, I have to respectfully say that they were simply not enough. Our community had around 98 officers in FY 2000, which is 48 more than we have right now, and according to the BIA, we need a minimum of 110 officers just to stay afloat. We did receive some additional funding in FY 2007 – 2009, but all that did was allow us to avoid terminating some of the officers that DOJ was funding with its competitive grants. So, while we greatly appreciate the help that we received, the fact remains that even with those increases, we still have 48 less officers than we had in 2000 and crime rates 5 times as high.

Mr. Chairman, I know how tight the federal budget is right now, but I have to tell you that this underfunding of BIA law enforcement has to be addressed, because on-reservation crime is on the rise. That is why we, at Pine Ridge, were shocked and more than a bit angered by the Administration's proposal to transfer \$19 million from the BIA law enforcement program to the FBI. While we will be the first to agree that we need more arrests and prosecutions of violent crime in our Indian communities, we also know that because the FBI is at least an hour and a half from our reservation, the first responders to those calls will have to be our tribal officers who have to secure the scene, transport the victim and collect the initial witness statements until the FBI can arrive. To reward the FBI for failing to perform what it is already their authorized responsibility, and to pay that reward with our precious tribal funds is just plain wrong. If the FBI needs more money to deal with on-reservation crime then let them ask for it as a part of the DOJ appropriation, don't just give them the dollars that we need to answer the call from the rape victim or abused child.

While the DOJ programs, that tribes compete for, do provide a great source of income for purchasing certain unique equipment and for funding certain specialized training, I must state emphatically that they must not be seen as a replacement for, or even a supplement to, the BIA base law enforcement budget. Those DOJ funds are competitive, many require matches, and they cost us money to operate, because they pay no indirect cost. Most importantly, however, they provide a totally unreliable source of funds. We never know when, or even if, we are going to be funded. In fact, we are at the end of the second quarter of our 2010 fiscal year and we are still waiting for application materials from DOJ for the FY 2010 DOJ funds that were specifically earmarked by this Congress to replace some of our police vehicles and equipment.

For all of these reasons, I am here to respectfully request that you do everything in your power to increase BIA law enforcement funding by at least 50 % each year for the next three years. Without those types of increases, you will not see a decrease in on-reservation crime. We would also ask that you take the steps necessary to get those funds down to the local tribal level. The BIA law enforcement program received a \$25 million increase in FY 2010, but we have not seen a penny of that money at Pine Ridge.

Now to tribal court funding. Given the fact that our tribal court is severely understaffed and so underfunded that our back log is over a year, we were shocked to see that the Administration is proposing a cut in BIA tribal court funding. Common sense dictates

that law enforcement alone is not going to stop crime in Indian Country. We also need a sound, well trained, well equipped and well funded judicial system to put those arrested in jail. How can you stop crime when you can't afford to hire the judges and prosecutors that you need, or even automate your court files? So, please do whatever you can to get rid of this ridiculous cut and instead increase our court funding by at least 30%.

Finally, to our facility issues. First, I would like to thank you for the FY 2009 facilities construction monies that you provided us with, and tell you that our work on the new Pine Ridge Justice Center, funded with those dollars, is going well. The BIA has advised us that it has enough previously appropriated dollars to finalize that construction, but I would like to reserve the opportunity to come back to this Subcommittee, if they are proven wrong.

While we appreciate this assistance for Pine Ridge, we are still facing a real crisis with our Medicine Root jail. Remember, because of the size of our reservation and the size of our population, we are forced to operate two jails and two courts, one to serve the east side of our reservation, and one to serve the west. Our Medicine Root Jail and the police substation, which houses our 911 operation, are both falling apart and fail to meet a long list of minimum federal requirements. In fact, when the BIA received its construction funds last year, they basically asked us which one of our two jails we wanted replaced first.

When we picked Pine Ridge, the BIA was concerned enough about Medicine Root that it actually asked for, and this Subcommittee actually appropriated for FY 2010, a little over \$ 3 million to repair our Medicine Root Jail. But that won't come close to fixing the problem. In fact, the preliminary estimates that we have been given say that we need at least a total of \$11.6 million just to address the most important items on the punch list at Medicine Root, and this repair estimate does not cover all improvement and repairs necessary to meet basic code requirements. To make matters worse, many of the restrictions placed on the BIA repair and renovation funds, make it all but impossible to fix some of our real problems. This is because we cannot use those monies to change the footprint of the building, and because when we go to repair certain items, new federal health and safety codes require us to reduce our detention space in that building to accommodate new minimum federal space standards for things like bathrooms. Thus, I am here today to ask you again for the funding to replace that building. Please understand, however, that even you choose to do that, instead of trying to find the additional \$ 8.6 million that we need in order to repair just some of the most critical items, we still need all of the \$3 million repair money that you previously appropriated, just to keep Medicine Root open until that new construction can be completed.

Now let me turn to something that needs the attention from both you and the authorizing committee- the President's Broadband initiative. Today, most of the residents on our reservation do not have access to high speed internet and the services that are provided in some areas of our reservation are costly and unreliable. This lack of internet capability is hampering our police and other emergency service providers, our medical teams and our schools. For all of these reasons, Pine Ridge was one of the first tribes in the country to

call for a broadband application package when the Recovery Act funds were announced. Unfortunately, when that application package arrived we, like the other tribes who received it, found that it was impossible for us to fill out, because we lacked the expertise to do so. In fact, it seemed like just about every section of the application required another engineer to certify another page of the application itself. We spoke with a number of professionals and determined that it was going to cost us around \$200,000 just to contract with the people we need to fill out the competitive application. For this reason, we are asking the members of this Subcommittee to have a conversation with their counterparts on the full Committee and the authorizing Committees to see if there is anyway that some of the Broadband ARA funds that are still sitting in the Agriculture and Commerce Departments can be transferred to BIA and authorized for use in providing technical assistance and funding to tribes like Oglala who are desperately in need of broadband services. Our area is far too large to make it cost effective for a private company to come on and install these services at their own expense. They will never recoup the construction costs. So, this is the only solution that we and a number of the other large land based tribes have arrived at to get us the services that the President has proposed.

Now just a few comments on the Indian Health Service. The FY2011 President's budget request for IHS is a major step in the right direction, however, we would respectfully point out that these overall increases barely adjust for losses sustained by the IHS and our communities for lost inflationary growth and several severe recession years. We therefore urge the Subcommittee to strengthen our health funding, especially as the IHS and Tribes will be expected to play a critical role in the new health care era.

Our funding limitations leave us with deferred patient care. This deferred care often results in a costly medical crisis that could have been avoided and more reasonably financed when an illness or injury was in its early stages. While we are fortunate to have an IHS hospital, the existence of this hospital does not diminish the demand for private health provider assistance and our Contract Health Program is still a significant portion of our delivery system. Yet, I have learned that any CHS program increases see an automatic 25% set-aside for regions without inpatient facilities. Such regions, of course, have a special need for CHS funding. However, to assume that once a Tribe has a hospital its community health needs are being principally met is a disservice to our Tribe and our Region.

The FY 2010 CHS increase over the prior year was \$117M, with \$17M targeted for the Catastrophic Health Emergency Fund (CHEF). The Aberdeen Area only received only \$7 million from this general CHS increase. The total FY2010 CHS account was funded at \$779.347M, yet Aberdeen for all its population, remote locations and heavy reliance on private providers for specialty and urgent care only received \$79 million. The result is that in FY2009, we had 941 deferred cases and the total denials in of 41,266 cases. This is disturbing given that there are two regions which are able to sustain full CHS coverage for all priority levels. We therefore call upon the Subcommittee to examine the Indian Health Service's methods for allocating CHS dollars and to provide a real increase in our CHS funds.

GREAT LAKES INDIAN FISH & WILDLIFE COMMISSION

P. O. Box 9 • Odanah, WI 54861 • 715/682-6619 • FAX 715/682-9294



• MEMBER TRIBES •

MICHIGAN

Bay Mills Community
Keweenaw Bay Community
Lac Vieux Desert Band

WISCONSIN

Bad River Band
Lac Courte Oreilles Band
Lac du Flambeau Band

MINNESOTA

Fond du Lac Band
Mille Lacs Band

FY 2011 TESTIMONY

HOUSE COMMITTEE ON APPROPRIATIONS

SUBCOMMITTEE ON INTERIOR, ENVIRONMENT AND RELATED AGENCIES

BY

JAMES E. ZORN, EXECUTIVE ADMINISTRATOR

GREAT LAKES INDIAN FISH AND WILDLIFE COMMISSION (GLIFWC)

AGENCIES – BUREAU OF INDIAN AFFAIRS AND ENVIRONMENTAL PROTECTION AGENCY

1. BIA RIGHTS PROTECTION IMPLEMENTATION: AT LEAST \$30,451,000 (same as FY 2010 appropriation).

GLIFWC: AT LEAST \$5,619,000 (proportionate allocation within RPI program).

Agency/Program Line Item: Dept. of Interior, Bureau of Indian Affairs, Operation of Indian Programs, Trust-Natural Resources Management, Rights Protection Implementation, Great Lakes Area Resource Management.¹

Funding Authorizations: Snyder Act, 25 U.S.C. s. 13; Indian Self-Determination and Education Assistance Act, (P.L. 93-638), 25 U.S.C. ss. 450f and 450h; and the treaties between the United States and GLIFWC's member Ojibwe Tribes, specifically Treaty of 1836, 7 Stat. 491, Treaty of 1837, 7 Stat. 536, Treaty of 1842, 7 Stat. 591, and Treaty of 1854, 10 Stat. 1109.²

2. EPA GREAT LAKES RESTORATION: \$475,000,000 (same as FY 2010 appropriation).

GLIFWC: \$1,200,000 (estimated annual need).

Agency/Program Line Item: Environmental Protection Agency, Environmental Programs and Management, Geographic Programs, Great Lakes Restoration.

Funding Authorizations: Clean Water Act, 33 U.S.C. s. 1268(c); and treaties cited above.

GLIFWC'S GOAL – A SECURE FUNDING BASE TO FULFILL TREATY PURPOSES

As Congress has recognized for over 25 years, funding for GLIFWC's conservation, natural resource protection, and law enforcement programs honors federal treaty obligations to eleven Ojibwe Tribes and provides a wide range of associated public benefits. GLIFWC seeks an inflation-adjusted secure funding base to: i) implement federal court orders and intergovernmental agreements governing the exercise of treaty-guaranteed hunting, fishing and gathering rights; and ii) participate in management partnerships in Wisconsin, Michigan and Minnesota.

¹ The requested BIA funds reflect GLIFWC's allocation of this line item that also funds the 1854 Treaty Authority.

² The rights guaranteed by these treaties, and the associated tribal regulatory and management responsibilities, have been affirmed by various court decisions, including a 1999 US Supreme Court case.

ELEMENTS OF GLIFWC'S FUNDING REQUEST

1. BIA RIGHTS PROTECTION IMPLEMENTATION: AT LEAST \$30,451,000. In FY 2010, Congress addressed chronic underfunding of the Rights Protection Implementation (RPI) program by increasing this line item by \$12 million, a welcome increase but still far less than the tribes' total RPI needs. From this increase, the Administration provided GLIFWC with a much-needed \$1.7 million increase in its FY 2010 RPI funding to the current level of \$5,619,000. Unfortunately, in FY 2011 GLIFWC could lose at least \$450,000 – over 26% – of the FY 2010 \$1.7 million increase because of a proposed cut to its RPI funding, the absorption of fixed costs, and contract support cost shortfalls.

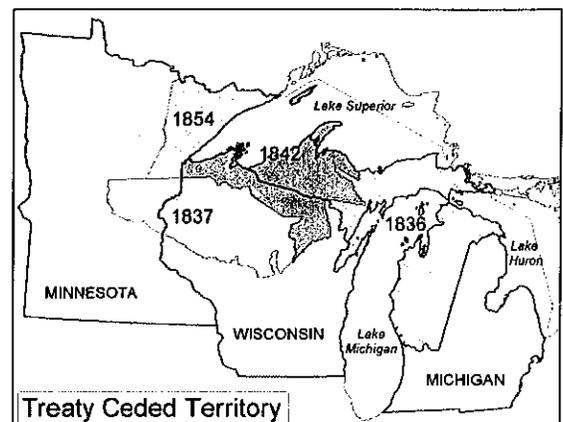
With the full FY 2010 funding amount and full contract support costs, GLIFWC would be able to create and sustain jobs that will protect and enhance natural resources and associated habitats. Specifically, GLIFWC could: i) fill at least 6 staff vacancies, ii) restore its long-standing fish contaminant and consumption advisory program, iii) reinstitute fall juvenile walleye recruitment surveys at previous levels, iv) restore tribal court and registration station funding, v) restore Lake Superior lamprey control and whitefish assessment programs, vi) restore GLIFWC's share in cooperative wildlife and wild rice enhancement projects, vii) replace ageing equipment, viii) meet expanding harvest monitoring needs and increased natural resource assessment responsibilities, and ix) meet uncontrollable increases in employee benefit costs.

2. EPA ENVIRONMENTAL PROGRAMS AND MANAGEMENT: \$475,000,000. GLIFWC supports continued funding for the EPA's Great Lakes Geographic Program (GLGP) and the Great Lakes Restoration Initiative (GLRI) at \$475 million, the same as the FY 2010 appropriation. It also recommends that at least \$25 million be provided to the BIA for tribes, to ensure they are able to undertake projects that contribute to the protection and restoration of the Great Lakes. Funding provided through the BIA should be made available under the Indian Self-Determination and Education Assistance Act.

In FY 2010, GLIFWC is proposing about \$1.2 million in GLGP/GLRI funding. If funding is sustained at this level, GLIFWC will be able to create jobs that will allow it to fully participate in the decision-making processes that affect the treaty rights of its member tribes, ensure that decisions are based upon sound science, and implement specific habitat and human health research projects relevant to the subsistence, economic and cultural needs of tribal communities. One particular priority is to undertake projects that evaluate the potential impacts of climate change on natural resources important to GLIFWC member tribes.

CEDED TERRITORY TREATY RIGHTS – GLIFWC'S ROLE AND PROGRAMS

Established in 1984, GLIFWC is a natural resources management agency for eleven member Ojibwe Tribes regarding their ceded territory (off-reservation) hunting, fishing and gathering treaty rights. These ceded territories extend over a 60,000 square mile area in a 3-state region. GLIFWC's mission is to: i) ensure that its member Tribes are able to exercise their rights for the purposes of meeting



subsistence, economic, cultural, medicinal, and spiritual needs; and ii) ensure a healthy, sustainable natural resource base that supports those rights. GLIFWC is a “tribal organization” as defined by the Indian Self-Determination and Education Assistance Act. It is governed by a Constitution ratified by its member Tribes and by a Board composed of the Chairs of those Tribes.

GLIFWC operates a comprehensive ceded territory hunting, fishing, and gathering rights protection/implementation program through its staff of biologists, scientists, technicians, conservation enforcement officers, policy specialists, and public information specialists. Its activities include: i) natural resource population assessments and studies, ii) harvest monitoring and reporting, iii) enforcement of tribal conservation codes in tribal courts, iv) funding for tribal courts and tribal registration/permit stations, v) development of natural resource management plans and tribal regulations, vi) negotiation and implementation of agreements with state, federal and local agencies, vii) invasive species eradication and control projects, viii) biological and scientific research, including fish contaminant testing, and ix) development and dissemination of public information materials.

JUSTIFICATION & USE OF THE REQUESTED FUNDS

For over 25 years, Congress has recognized GLIFWC as a cost-efficient agency that plays a necessary role in: i) meeting specific federal treaty and statutory obligations toward GLIFWC’s member Tribes; ii) fulfilling conservation, habitat protection, and law enforcement functions required by federal court decisions affirming the Tribes’ treaty rights; iii) effectively regulating harvests of natural resources shared among the treaty signatory Tribes; and iv) serving as an active partner with state, federal and local governments, with educational institutions, and with conservation organizations and other non-profit agencies.

Particularly relevant to the requested EPA funds, Tribal members rely upon treaty-protected natural resources for religious, cultural, medicinal, subsistence, and economic purposes. Their treaty rights mean little if contamination of these resources threatens their health, safety, and economy, or if the habitats supporting these resources are degraded.

With the requested stable funding base, GLIFWC will:

- 1. MAINTAIN THE REQUISITE CAPABILITIES TO MEET LEGAL OBLIGATIONS, TO CONSERVE NATURAL RESOURCES AND TO REGULATE TREATY HARVESTS:** Although it does not meet all GLIFWC’s needs, sustained funding at FY 2010 levels would go a long way in facilitating continued tribal compliance with various court decrees and intergovernmental agreements governing the tribes’ treaty-reserved hunting, fishing and gathering rights. It also enhances GLIFWC’s capability to undertake work and participate in relevant partnerships to tackle ecosystem threats, such as invasive species, habitat degradation and climate change, that harm treaty natural resources.

- 2. REMAIN A TRUSTED ENVIRONMENTAL MANAGEMENT PARTNER AND SCIENTIFIC CONTRIBUTOR IN THE GREAT LAKES REGION:** With the requested EPA funding base, GLIFWC would maintain its role as a trusted environmental management partner and scientific contributor in the Great Lakes Region. It would bring a tribal perspective to the interjurisdictional mix of

Great Lakes managers³ and would use its scientific expertise to study issues and geographic areas that are important to its member Tribes but that others may not be examining.⁴

3. MAINTAIN THE OVERALL PUBLIC BENEFITS THAT DERIVE FROM ITS PROGRAMS: Over the years, GLIFWC has become a recognized and valued partner in natural resource management, in emergency services networks, and in providing accurate information to the public. Because of its institutional experience and staff expertise, GLIFWC provides continuity and stability in interagency relationships and among its member Tribes, and contributes to social stability in the context of ceded territory treaty rights issues.

For more than 25 years, GLIFWC has built and maintained numerous partnerships that: i) provide accurate information and data to counter social misconceptions about tribal treaty harvests and the status of ceded territory natural resources, ii) maximize each partner's financial resources and avoid duplication of effort and costs, iii) engender cooperation rather than competition, and iv) undertake projects and achieve public benefits that no one partner could accomplish alone.

OTHER RELATED APPROPRIATIONS CONCERNS

1. Full Funding of BIA Contract Support Costs: GLIFWC seeks full funding of its contract support costs. The Administration's FY 2011 proposed increase of \$21.5 million for these costs is welcomed, but even that amount only achieves an estimated 94% of need based on FY 2007 funding levels. GLIFWC anticipates its FY 2010 indirect cost shortfall to be at least \$287,000, and this does not even take into account the shortfall for all of its direct contract support costs. These shortfalls significantly inhibit GLIFWC's ability to restore program cuts and service capacity.

2. BIA Circle of Flight Tribal Wetland & Waterfowl Initiative: GLIFWC supports BIA funding of the Circle of Flight Tribal Wetland & Waterfowl Enhancement Initiative for Michigan, Minnesota, and Wisconsin. The Circle of Flight program is a long-standing tribal contribution to the North American Waterfowl Management Plan that has leveraged matching partnership funding on a 3 to 1 ratio. In 2010, this program was awarded a Department of Interior "Partners in Conservation" Award.

³GLIFWC currently participates on a regular basis in the Binational Program to Restore and Protect Lake Superior, International Joint Commission and SOLEC forums, the Great Lakes Restoration Initiative, and the implementation of agreements to regulate water diversions and withdrawals under the Great Lakes Charter, Annex 2001.

⁴ With the requested FY 2011 funds, GLIFWC would: i) continue a ceded territory wild rice enhancement project; ii) facilitate tribal review and input on the re-negotiation of the Great Lakes Water Quality Agreement and any implementing activities; iii) continue to participate in the development and implementation of the Lake Superior Lakewide Management Plan; iv) build upon its long-standing fish contaminant analysis and consumption advisory program by testing additional species, testing in a wider geographic range, and testing for chemicals of emerging concern; and v) enhance its invasive species and animal disease prevention, monitoring and mitigation programs, particularly given the potential impacts of climate change, the recent discovery of viral hemorrhagic septicemia (VHS) in Lake Superior and the likely migration of the Asian Carp into the Great Lakes.

TESTIMONY OF BUFORD ROLIN

**CHAIRMAN, POARCH BAND OF CREEK INDIANS,
VICE CHAIRMAN, NATIONAL INDIAN HEALTH BOARD,
CO-CHAIRMAN, TRIBAL DIABETES LEADERS COMMITTEE &
CO-CHAIRPERSON OF THE NATIONAL STEERING COMMITTEE FOR THE REAUTHORIZATION OF
THE INDIAN HEALTH CARE IMPROVEMENT ACT**

TO THE HOUSE INTERIOR APPROPRIATIONS SUBCOMMITTEE

**FY 2011 INDIAN HEALTH SERVICE BUDGET PRIORITIES
MARCH 23, 2010**

Mr. Chairman, and Members of the Subcommittee:

My name is Buford Rolin. I serve as Chairman of the Poarch Band of Creek Indians and Vice-Chairman of the National Indian Health Board (NIHB). In these capacities and others, I have been fortunate to work with Tribal Leaders from across the country to address issues that affect the Indian health delivery system and the health status of Indian people.

The NIHB was very pleased to learn that, for the FY 2011 IHS budget, the Obama Administration is proposing a \$354 million increase over the FY 2010 enacted IHS appropriations. This 8.7% increase is particularly noteworthy in light of the fact that the Administration has proposed an overall freeze on discretionary funding. The request represents the continued commitment of the Administration to engage with Indian Country on a government-to-government basis, and that the Administration understands the critical needs of our communities. I thank Congress, specifically this committee, for also championing our issues through increased appropriations.

In addition, NIHB is mindful that, despite the federal government's legal obligation and sacred trust responsibility to provide health care to American Indians and Alaska Natives (AI/AN), to date IHS funding remains a discretionary line and thus susceptible to cuts. The trust obligation to provide health care is, however, paramount, and it is upon this foundation that the IHS Tribal Budget Formulation Workgroup built its recommendations for the FY 2011 IHS budget.

The IHS Tribal Budget Formulation Workgroup consists of tribal representatives from each of the 12 IHS Areas. Each year the Workgroup consolidates all the Area recommendations and, working with IHS Headquarters and national Indian organizations, develops a consensus national tribal budget and health priorities document. For FY 2011, the Workgroup's detailed recommendations are described in its paper titled "*Standing on Principals: A New Era in Tribal Government Relation*" which is attached as an addendum to this written testimony. The Workgroup's focus here is on investing in a new partnership between the Federal Government and Tribes to advance the health of AI/ANs. The Workgroup's proposal centers on a ten-year phase-in to eventually achieve full funding for IHS. As a first step, the Workgroup recommends increases in the IHS Budget totaling \$2.1 billion above FY2010 funding levels.

These recommendations focus on two types of needed increases:

Current Services Increases are those budget increments needed to enable the Indian health system to continue operating at its current level of service. This category contains such items as pay cost increases; inflation; contract support costs; funding for population growth; and facilities construction and staffing. Without these increases to base funding, the Indian health system would experience a *decrease* in its ability to care for the service population. The Workgroup recommends an increase of \$947 million for these items to maintain the existing level of services.

Program Services Increases refer to the recommended increases in key IHS budget accounts to enable our programs to improve and expand the services they provide to Indian patients. As you know, the IHS has long been plagued by woefully inadequate funding in all programmatic areas, a circumstance which has made it impossible to supply Indian people with the level of care they need and deserve, and to which they are entitled by treaty obligation. The Workgroup recommends \$1.14 billion be added to identified program and facilities accounts for these purposes.

Specific Increases. I would like to highlight a few programs targeted by the Tribal Workgroup for vital increases. Similar to the President's proposal, the Tribal Workgroup focuses the largest increases on the following program areas.

Contract Support Costs. Since 1975, Indian Tribes, under the Indian Self-Determination and Education Assistance Act, have exercised the right that the law provides to take over the direct operation of IHS programs. All Tribes in all Areas operate one or more such contracts. The ability of Tribes to successfully operate their own health care systems, from substance abuse programs to entire hospitals, depends centrally upon the proper appropriation of Contract Support Costs (CSC) – the audited and fixed general and administrative costs required to administer these programs. The present underfunding of CSC creates a disincentive for Tribes to take on such endeavors. Worse, it *penalizes* Tribes when they do, because it diminishes available health care funding by forcing contracting and compacting Tribes to divert health care dollars to cover these fixed administrative costs. Full CSC funding eliminates that penalty, honors the legal duty to pay these costs, and protects health care resources intended for service delivery. **The NIHB supports the Workgroup's full funding recommendation, and urges that the CSC line item be increased by \$150 million (to \$550 million) for FY2011.**

Hospitals and Clinics. The Hospital and Clinic budget line item is the core account which funds the Indian health system's medical care programs, including direct medical services, public/community health initiatives and information technology. Increases for this budget item go toward addressing the treatment of chronic diseases, including diabetes, cancer and heart diseases, as well as sustained programs for health promotion and disease prevention initiatives (including obesity reduction) to reduce future demand for chronic care. **Due to its central role, the Workgroup recommends an increase in the overall Hospitals and Clinics account of \$500 million.**

A subset within the Hospitals and Clinics line item includes funding for the Indian Health Care Improvement Fund (IHCIF) and for Information Technology (IT). The IHCIF provides separate funding for distribution to selected operating units in order to reduce resource disparities across the IHS system. Without an appropriate level of support in the Hospitals and Clinics account, the United States' trust responsibility for Indian health cannot be met and the Indian health system is unable to fulfill its health care mission. IT is also essential to health service delivery, because the IHS system is in critical need of infrastructure and support systems to implement Electronic Health Records. NIHB appreciates the President's support for an increase of \$44 million for IHCIF, \$4 million for IT, and \$2.5 million to address chronic diseases.

Contract Health Services: The contract health service (CHS) program serves a critical role in addressing the health care needs of Indian people. The CHS program exists because the IHS system is not capable of supplying directly all the care needed by the IHS service population. In theory, CHS should be an effective and efficient way to purchase needed care – especially specialty care – which Indian health facilities are not equipped to provide. In reality, CHS is so grossly underfunded that Indian Country cannot purchase the quantity and types of care needed. At present, less than one-half of the CHS need is being met, leaving too many Indian people with *no* access to necessary medical services. As a consequence, many of our Indian patients are left with untreated and often painful conditions that, if addressed in a timely way, would improve quality of life at lower cost. **The Workgroup proposes an increase of \$500 million for CHS.**

Budget Management Issues. Lastly, I would like to call your attention to two additional items which require special attention and instructions.

First, each year the IHS Tribal Budget Formulation Workgroup develops a national tribal consensus on the IHS budget priorities for the upcoming fiscal year and presents its recommendations to the Department during formal tribal consultation. But thereafter, the Workgroup is denied the opportunity to consult with the Office of Management and Budget (OMB) about the Workgroup's recommendations. Tribes are kept entirely in the dark until the President offers his budget proposal nine months later. In this new era of revitalized government-to-government relations between the Federal government and the Tribes, OMB should bring transparency to the budget formulation process by engaging Tribes on an ongoing basis. NIHB recommends that the Committee include an appropriate instruction to OMB on this score.

Second, the passage of health care reform and most importantly, the Indian Health Care Improvement Act (IHCIA), is likely to occur soon. Indian Country needs to be a partner in designing and implementing the new authorities offered in the IHCIA. Implementation will be an enormous task, but designing a blueprint with Tribes as partners in this process is well worth the effort. Here, too, NIHB recommends that the Committee include an appropriate instruction on this score.

On behalf of the National Indian Health Board, thank you for the opportunity to address the Subcommittee on these important matters. I am happy to answer your questions.

Recommendations of the IHS National Tribal Budget Formulation Workgroup

FY 2011 CURRENT SERVICES INCREASES

	President's Proposal	Tribal Budget Workgroup Proposal
Federal Pay Costs	\$10,935,000	\$26,900,000
Tribal Pay Costs	13,417,000	29,200,000
Inflation	59,977,000	63,300,000
Additional Medical Inflation	0	54,800,000
Population Growth	52,466,000	42900000
Staffing for New/Replacement Facilities	38,771,000	25,000,000
Contract Support Cost	0	170,100,000
Health Care Facilities Construction	0	281,324,000
Joint Venture	0	60,000,000
Area Distribution Fund	0	140,000,000
Restore FY 2008 Rescission	0	53,521,000
TOTAL CURRENT SERVICES	\$175,566,000	\$947,045,000

FY 2011 PROGRAM INCREASES

Hospitals & Clinics	0	500,000,000
Indian Health Care Improvement Fund	44,000,000	10,000,000*
Information Technology	4,000,000	30,000,000*
Chronic Diseases	2,529,000	--
Dental	0	30,000,000
Mental Health	0	20,600,000
Alcohol and Substance Abuse	4,000,000	19,600,000
Contract Health Services	46,000,000	500,000,000
Public Health Nursing	0	0
Health Education	0	0
Community Health Representatives	0	0
Alaska Immunization	0	0
Urban Indian Health	1,000,000	10,000,000
Indian Health Professions	0	0
Tribal Management	0	0
Direct Operations	0	0
Self-Governance	0	0
Contract Support Costs (New & Expanded)	40,000,000	--
Maintenance & Improvement	0	20,000,000
Sanitation Facilities Construction	36,958,000	35,000,000
Facilities & Environmental Health Support	0	0
Equipment	0	12,000,000
TOTAL PROGRAM INCREASES	\$178,487,000	\$1,147,200,000

Notes: * Funding is recommended for the IHCIF and IT to be funded as a subset of Hospitals & Clinics Funding.

-- refers to items not considered by the National Tribal Budget Workgroup



Choctaw Nation of Oklahoma

P.O. Box 1210 - Durant, OK 74702-1210 - (580) 924-8280

Gregory E. Pyle, Chief

Gary Batton, Assistant Chief

**TESTIMONY PRESENTED BY
MICKEY PEERCY, EXECUTIVE DIRECTOR OF HEALTH SERVICES
(ON BEHALF OF CHIEF GREGORY E. PYLE)
CHOCTAW NATION OF OKLAHOMA**

**AT THE U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEE ON INTERIOR, ENVIRONMENT AND RELATED AGENCIES
PUBLIC WITNESS HEARING ON NATIVE AMERICAN ISSUES
March 23, 2010**

Good afternoon distinguished Members of the Committee. On behalf of Chief Gregory E. Pyle, of the Great Choctaw Nation of Oklahoma, I extend to you the support of the people of the Choctaw Nation to work with you in addressing the priority issues of Contract Support Costs, Contract Health Services and Sanitation Facilities. Thank you for inviting the Choctaw Nation of Oklahoma to provide testimony on these needs.

Issue:

CONTRACT SUPPORT COST FUNDING – \$99.3 million in FY2010 and \$100 million in FY2011

The FY 2010 final appropriation provides a \$116 million increase for Contract Support Costs (CSC) and signals an end to a sad chapter of neglect for Indian Self-Determination and Self-Governance. The growth of Self-Governance compacting was seriously undermined from 2002 through 2009, by the failure to pass adequate funding increases, to not only support existing contractors, but those who wanted to participate in Self-Governance opportunities. Self-Governance Tribes appreciate the FY 2010 and FY2011 support of the Administration and Congress to address the CSC funding shortfall and acknowledge the commitment to sustain and expand Indian Self-Determination. The well-documented achievements of Indian Self-Determination and Self-Governance policies have consistently improved service delivery, increased service levels, and strengthened Tribal governments, institutions, and services for Indian people.

It is estimated that the CSC shortfall will be \$99.3 million in FY 2010 and \$100 million in FY2011. The chronic underfunding of CSC represents the single greatest impediment to the expansion of Tribal Self-Governance. CSC funding is vital to support the infrastructure needed to operate IHS programs. The present shortfall creates a disincentive for Tribes to pursue Self-Governance compacts, and diminishes available health care funding as Tribal budgets must absorb the

shortfall amounts. Adequate CSC funding assures that Tribes, under the authority of their IHS contracts and compacts, have the ability to deliver the highest quality health care services to their members. Tribal programs have significantly increased the quality and level of services in their health systems compared to direct service programs. Failing to adequately fund CSC defeats the very program that has most improved health conditions for American Indians and Alaska Natives. Finally, underfunding CSC disproportionately hurts Self-Governance/Self-Determination Tribes because it protects direct service operations from sharing in overall funding reductions and limitations. And again, underfunding CSCs costs jobs in Indian country.

Recommended Action: We strongly urge consideration of this line item, and recommend an increase of \$99.3 million in FY2010 (by supplemental appropriations) and \$100 million in FY2011 to alleviate the shortfall for current contracting and compacting with IHS. To the extent fully funding CSC in FY 2011 is deemed infeasible, the Choctaw Nation recommends that a plan be developed by the Administration and implemented immediately to sustain CSC funding in the appropriations process by eliminating the IHS CSC shortfall over a defined period of time. The objective would be to (1) annually provide sufficient CSC increases to adequately cover expanded CSCs associated with program increases and inflation (\$45.8 million in FY 2011 and a similar sum in FY 2012, and (2) include an additional CSC increase to phase-out the overall shortfall in three years (by adding \$35 million to the \$45.8 million).

Pacing increases in this manner would permit the Administration to fulfill its commitment to support Indian Self-Determination and Self-Governance in a responsible manner that reflects the current difficult fiscal environment. It will allow Tribal governments to support the Administration and Congressional efforts currently underway to create jobs in the most severely impoverished parts of the country. If these increases begin in FY2012, it will eliminate the shortfall entirely in the FY2014 budget (after which annual increases would drop back to cover future inflationary, program increase and ISD requirements).

Finally, the Administration should budget for CSC requirements associated with future IHS budget increases. For instance, today any new program dollar requires a matching increase of 13.5 cents in contract support costs, because the CSC requirement is an average 25% of each direct service dollar that is under contract, and 54% of all IHS service dollars are presently under contract. Developing appropriations increases in the future along these lines will prevent any future expansion of the historic CSC shortfall. Once that shortfall is eliminated (as proposed above) this approach will guard against any recurrence of shortfalls in the future.*

**Taken from the Tribal Self Governance Strategic Plan and National Priorities for the Obama Administration and the 111th Congress 2nd Session 2010-2011, updated February 2010*

Issue:

CONTRACT HEALTH SERVICES

Contract Health Service (CHS) is the most complex service delivered by the Indian Health Service, Tribally Operated Health Program (TOHP) health care delivery system. CHS is designed

to refer patients and reimburse providers outside the IT system for medical services provided to American Indian/Alaska Natives (AI/AN) patients. CHS services consist of those services not provided by the TOHP hospitals and clinics.

The Indian Health Service and Tribally Operated Health Programs are taking positive steps to improve the way we deliver care in the CHS program. Dr. Yvette Roubideaux, Director of Indian Health Service, will soon form a new workgroup to review the CHS program and initiate a "best practices" process that will allow the sharing of successful programs. We are heading down a positive road and we applaud the Director for listening to our concerns and seeking a process to address the needs of Tribal health providers.

The FY 2010 appropriation from Congress for Contract Health Services was a good faith beginning. The \$117 million increase is very much appreciated. *The large problem with CHS is that no one is sure what the dollar figure is to fully fund this program.* It is not just the total of dollars spent, plus denied referrals, plus deferred referrals. We know of providers who do not submit referrals because they know they will never meet the criteria for payment. So IHS and Tribes must come up with a formula to provide Congress with a true number.

Until this amount can be provided to Congress, all we know is that the program is woefully underfunded. The Choctaw Nation of Oklahoma requests that Congress support the \$83 million increase in the President's budget request for CHS in FY2011. Also, we strongly recommend that the funding methodology used in FY2010 be used to distribute the funds.

Issue:

SANITATION FACILITIES CONSTRUCTION (SFC)

In mainstream America it is difficult to imagine citizens living without access to clean water or waste disposal facilities; after all it is 2010! Yet in many areas where AI/ANs reside, this is the rule rather than the exception. We know this is a fact in many of the reservation areas, but it is also a fact in rural Oklahoma. The Southeast corner of Oklahoma is the homeland for the Choctaw Nation. It is the size of Vermont. Some Choctaw members and other Indians live in small towns and communities served by Rural Water Districts or City Systems, but most live in homes far from major highways and communities. The terrain is rough, distances are significant, landscape is mountainous with many large trees. Many of our citizens do not have access to the most basic of services. Then we question, why are our people sicker than the non-Indian population?

Speaking specifically for the Oklahoma City Area, Indian Health Service, Sanitation Facilities Construction (and this is typical for all Areas of IHS) we are unnoticed and underfunded. SFC is preventive in nature and is not prioritized as a health delivery need by many Tribal Leaders and Tribal Health Directors. It is hard to compete with Cancer, Diabetes and Heart Disease. It is a major need in our system.

The Oklahoma City Area, Indian Health Service covers Oklahoma, NE Kansas, SE Nebraska and one Tribe in Texas. The Area Sanitation Deficiency System (SDS) is a prioritized list of needed water, sewer and solid waste projects. In November 2009 the SDS indicated a need of \$77 million dollars; the SFC funding was \$7,113,000. The priority list grows at a much higher rate than the appropriations. Within the Oklahoma City Area, the IHS and Tribal Programs will begin a canvassing process throughout Indian country to identify a true unmet need. We anticipate the unmet need will actually triple once this process is completed.

The President's 2011 budget request for SFC is \$97,710,000, an increase of only \$1,853,000 over 2010 which was equal to the 2009 level. We are requesting that Congress increase the SFC budget line item \$7,000,000 over the President's mark so that we can begin to close the gap in this important service.

Issue:

MANDATORIES - Provide \$474 million for IHS Mandatory, Inflation and Population Growth Increase to Maintain Existing Health Care Services

Mandatory costs increases are necessary to maintain the current level of services. These "mandatories" are unavoidable and include medical and general inflation, pay costs and population growth. Maintaining current services is a fundamental budget principle. Failure to do so would result in cuts in health care and delivery. We estimate the current services need in FY 2011 is \$474 million.

Issue:

OFFICE OF TRIBAL SELF-GOVERNANCE - Increase \$5.0 million to the IHS Office of Tribal Self-Governance

In 2003, Congress reduced funding for this office by \$4.5 million, a loss of 43% from the previous year. In each subsequent year, this budget was further reduced due to the applied Congressional rescissions. As of 2010, there are 330 Self-Governance (SG) Tribes managing approximately \$1.2 billion in funding. This represents 57% of all federally-recognized Tribes and 33% of the overall IHS funding. The Self-Governance office supports Tribes operating programs under the Tribal Self-Governance Amendments of 2000. The Self-Governance process serves as a model program for federal government outsourcing, which builds Tribal infrastructures and provides quality services to Indian people.

The Choctaw Nation supports the FY 2011 Budget Requests included in the National Tribal Self-Governance Strategic Plan & Priorities, by the National Indian Health Board and by the National Congress of American Indians.

Respectfully Submitted.

**Testimony of Donald Rodgers
Chief, Catawba Indian Nation
Before the
House Interior Appropriations Subcommittee
Tuesday, March 23, 2010**

FY 2011 Economic Development-Related Appropriations Requests:

- **Catawba Market - \$787,500.** Office of Indian Energy and Economic Development, Bureau of Indian Affairs; or Housing and Urban Development, Economic Development Initiatives.
- **Dave Lyle Boulevard Extension to Catawba Reservation - \$9.7 million.** Interior, Bureau of Indian Affairs, Indian Reservation Roads Program and Road Maintenance Program; or Transportation, Federal Transit Administration, Capital Investment Grants.
- **Catawba Indian Nation Ride Share Program - \$165,000.** Transportation, Federal Transit Administration; Buses and Bus Facilities.
- **Catawba Summer Youth Program - \$212,260.** Labor, Employment and Training Administration – Training & Employment Services.

Introduction. On behalf of the Catawba Indian Nation, a federally recognized tribe located in South Carolina, thank you for this opportunity to testify before the House Interior Appropriations Subcommittee.

Last year, I had the privilege of testifying before this Committee. Prior to that testimony, it had been many years since a Catawba leader had testified before the Congress, making my appearance an historic moment in the history of our two nations. Notably, during the Revolutionary War, the Catawba Indian Nation stood with the American colonists in their struggle for independence from the dictatorial mandates of King George III. Catawba scouts accompanied then-General George Washington on many of his campaigns. Ever since, the Catawbas have always answered the call of country, living up to their half of the Tribe's government-to-government relationship with the United States - and we will continue to do so.

I want to begin my testimony by expressing my appreciation for the support that this Committee has provided to the Catawba Tribe as my administration has worked to address budget and audit issues that had accumulated over prior years. With the support of Chairman Moran, Ranking Member Simpson, Congressman Cole and the Committee as a whole, the Bureau of Indian Affairs took action that allowed the Catawba Tribe to receive several million dollars in funds that had been allocated to the Tribe, but that we could not access. Your support then and now means a great deal to the Catawba people and on their behalf you have our heartfelt "thank you!"

Federal Support for Smaller, Economically Disadvantaged Tribes Seeking Self-Sufficiency. I am here today to urge this Subcommittee and, indeed, the full House Appropriations Committee, to invest Federal dollars in programs that support economic development for smaller tribes that have limited resources but, like the Catawba, are

committed to achieving economic self-sufficiency. Our Settlement Act specifically refers to the “policy of the United States to promote tribal self-determination and economic self-sufficiency” and it is about fulfilling this promise of support for economic self-sufficiency that I appear before you today. The limitations in our Settlement Act significantly inhibit our ability to achieve economic self-sufficiency. As is the case with many Native American tribes, the Catawba Indian Nation struggles with poverty and its related issues. In the 2000 Census, the Catawba Indian Nation had a per capita income of just \$11,096. The estimated current unemployment rate among the Catawba is more than double that of the state of South Carolina, which itself has very high unemployment. The tribe currently has no operating economic development ventures.

In our case, the Catawba Indian Nation is one of a handful of federally recognized tribes that do not enjoy the range of sovereign powers possessed by most federally recognized Indian nations. Under the terms of our Settlement Act we possess what I would term “second class tribal sovereignty.” For example, the state government has enormous civil and criminal jurisdiction on our lands, far in excess of that commonly accorded to states over other tribes. Additionally, in the area of gaming, we are not authorized to establish gaming operations pursuant to the Indian Gaming Regulatory Act. Instead, we are limited to two bingo halls, neither of which has been in operation since the state adopted a lottery that consumes most of the gaming dollars spent in our state. It is our hope that we can reestablish one of those bingo operations in the very near future. It is also our hope to come back to the Congress and ask for amendments to our Settlement Act that would restore some of our lost sovereignty and free-up our economic potential. We remain committed to being good citizens and good partners with the State of South Carolina, as we have been since the founding of the United States.

History of the Catawba. Since time immemorial the Catawba have lived in the Piedmont generally and along and upon the Catawba River specifically. In ancient times, the Catawba lived off the land and the river, hunting for game, fishing for shad, eels and other fresh water species, and farming corn, beans and squash. The tradition of pottery making among the Catawba, unchanged since before recorded history, links the lives of modern Catawba to our ancestors and symbolizes our connection to the earth and to the land and river we love. No less today, the sovereignty of the Catawba Indian Nation and our survival as a distinct people upon the earth is tied to our lands and the river. Like our pottery, the Catawba people have been created from the earth, and have been shaped and fired over time and so have survived many hardships to provide a living testament to our ancestors and to this place we call home.

The Catawba world was transformed by contact with European explorers and colonists. The Catawba's first encounter with Europeans was with the Spanish explorer Hernando de Soto, in 1540, and then with Juan Pardo in 1566. The Europeans brought guns, which made hunting easier, but they also brought disease, including small pox, which repeatedly decimated the tribe. Encroachment by settlers reduced Catawba lands. In 1760, the Catawbas entered into the Treaty of Pine Hill with the British authorities, which established a 15-mile square reservation in South Carolina. Although the Catawba honored the treaty, the Government of

South Carolina and white settlers did not, encroaching further upon Catawba land such that by 1826 only a small number of Catawbans remained, occupying one square mile.

Regrettably, in 1959, the Congress enacted the Catawba Tribe of South Carolina Division of Assets Act which terminated the tribe's Federal recognition and liquidated the tribe's 3,434 acre reservation.

After a long struggle, and only after the tribe threatened to invoke its treaty rights to 225 square miles of South Carolina, did Congress act in 1993 by passing the Catawba Indian Tribe of South Carolina Land Claims Settlement Act of 1993, which restored the trust relationship between the Catawba Indian Nation and the United States. This law also had the effect of settling treaty-based Catawba land claims on terms highly favorable to the State of South Carolina.

FY 2011 Economic Development-Related Appropriations Requests. Although we believe that the Catawba should have the same rights as other tribes, until Congress corrects this, we are focusing our efforts on ways to develop a diverse economy within the rights we currently possess. We ask that in your funding determinations you consider in general the tribal budgets of the Federal agencies listed above which provide significant funding to smaller tribes, as well as specifically the requests that we have listed and which are set forth in greater detail below:

Catawba Market - \$787,500. The Market will be located in the State of South Carolina, in the county of York, just outside the city of Rock Hill and adjacent to the Catawba Indian Nation. The Catawba Indian Nation has already secured funds to purchase a 2-acre tract, prepare the site, and cover architectural design of a convenience store. We need additional funds to construct the building, purchase equipment, and provide for start-up costs to open the store. There is only one other similar store within a five mile radius of the reservation. The store would allow Tribal members quick access to groceries and supplies without the undue burden of traveling to get what they need. The store is on a main road that is well traveled with approximately 3900 cars per day and would also receive traffic from the local community adding to the profitability of the store. This project serves as a HUD-defined "area-benefit activity" because approximately 65% of our tribal households had an income less than 80% of the median income for the area. The area is primarily residential with no existing industrial or manufacturing entities. All of our 2, 600 Tribal members will benefit because the income generated from the future business venture will help the Tribe provide more programs or serve as matching funds for future grant opportunities. In addition, a possible convenience store on this parcel of property will provide employment and job training opportunities for several people. A convenience store could employ approximately six Cashiers, two Clerks, one Assistant Manager, and one General Manager. Eight positions could be filled with unskilled labor and there is opportunity for advancement as they learn the business.

Dave Lyle Boulevard Extension to Catawba Reservation - \$9.7 million. The Dave Lyle Boulevard Extension has been a long-identified need for York County, Lancaster County and the Catawba Indian Nation. The full 9 mile project would provide a critical

connection between the counties, creating an “outer loop” south of the Ballantyne portion of I-485. This entire project is estimated at \$165,088,300 including bridges, interchanges, and a 4 lane roadway for approximately 9 miles. The Catawba Indian Nation is requesting this appropriation to fund the approximately 1.5 mile portion from the end of the current Dave Lyle to its 300 acre property off Sturgis Road, known as the Carroll Tract. The Tribe has dedicated 150 acres of this land for economic development, however access is extremely limited at this time. As the only Federally recognized Indian Tribe in the state, we unfortunately qualify as a Distressed Area, as outlined in Section 301 of the Public Works and Economic Development Act of 1965. Especially in these difficult times, the creation of construction jobs in the near future and establishing employment opportunities along the corridor in the long-run will assist in lowering unemployment and improving the quality of life of our people. In addition, improved access to our property will increase the awareness of the history and cultural heritage of the Catawbas, improving our small tourism economy.

Catawba Indian Nation Ride Share Program - \$165,000. Transportation is a primary concern for tribal members on the Catawba Reservation. A major part of the transportation problem for tribal members is getting to work. The unemployment rate on the reservation is twice that of the surrounding county. Many tribal members are unemployed because they do not have reliable transportation. A ride share program would allow the tribe to address this issue for our tribal members. The program will be able to take tribal members to jobs on a daily basis, including Saturday and Sunday. We hope this will decrease the unemployment rate on the reservation and increase the quality of life for our tribal members.

Catawba Summer Youth Program - \$212,260. In 2009, the Tribe established a Job Training and Life Skills program with the financial assistance of Palmetto Youth Connections. This program was extremely successful, resulting in a number of the participants securing permanent work. The Tribe would like to repeat this program in 2011, focused on 2 functional areas: First is the main function of restorative services by working with unemployed, underemployed adult tribal members ages 17 and up to obtain and retain work. The second function is to develop the preventative part by creating a program for tribal youth ages 15 - 23. By providing these services as a preventative measure for the younger population, we hope to work towards reducing the number of unemployed and underemployed adults in the years to come. If provided with this funding, the Catawba Indian Nation Vocational Program will be able to purchase curriculum, pay for stipends, job training and WorkKeys testing, hire additional staff to provide case management, and hire a part time child care staff member for youth who are parents of young children. Having child care on location will significantly reduce the cost of transportation and create a more accessible program for tribal members.

Conclusion. I thank you for this opportunity to talk about the needs of the Catawba Indian Nation. Your support for our people and, indeed, for all Native peoples is greatly appreciated and truly in the best traditions of the government-to-government relationship.



**Testimony of Geoffrey Roth, Executive Director of the
National Council of Urban Indian Health
House Interior Appropriations Subcommittee's Native American Witness Day
March 23-24th, 2010**

Background and History

Urban Indian Health Programs (UIHP) provide culturally competent, non-duplicative health services to more than 150,000 people annually and are critical to the Indian health care delivery system. The 36 clinics and programs across the United States are a critical safety net for Indian people living in urban centers. During these difficult economic times, ensuring the stability of this small but important part of the Indian health delivery system is even more necessary than ever. We would like to thank the Interior Appropriations Subcommittee and former-Chairman Dicks for recognizing the importance of these small but vital programs. We hope that Chairman Moran will build upon Chairman Dicks' legacy and continue to build upon the successes of the Urban Indian Health Program. The Subcommittee has consistently fought for the Urban Indian Health Program and last year took significant steps to reverse nearly a decade of underfunding. We thank the Subcommittee for recognizing that:

-  UIHPs overcome cultural barriers
-  UIHPs save costs and improve medical care by getting Urban Indians to seek medical attention earlier
-  UIHPs reduce costs to other parts of the Indian Health Service by reducing their patient load
-  UIHPs are a key provider to many uninsured urban Indians who may not go elsewhere for health care services

Today's Urban Indians are descendants of those tribal people who were relocated in the 1950s as part of the federal relocation program established by the Bureau of Indian Affairs. Congress has consistently acknowledged the government's trust responsibility extends to American Indians and Alaska Natives (AI/AN) living in urban settings. A Senate report relating to the Indian Health Care Amendments of 1987 noted: "The responsibility for the provision of health care, arising from treaties and laws...in exchange for the cession of millions of acres of Indian land *does not end at the borders of an Indian reservation.*"

Urban Indian Health Disparities

Urban Indians share in the same health disparities as other American Indians and Alaska Natives living in their tribal homes. Research done by the Urban Indian Health Institute in Seattle, WA

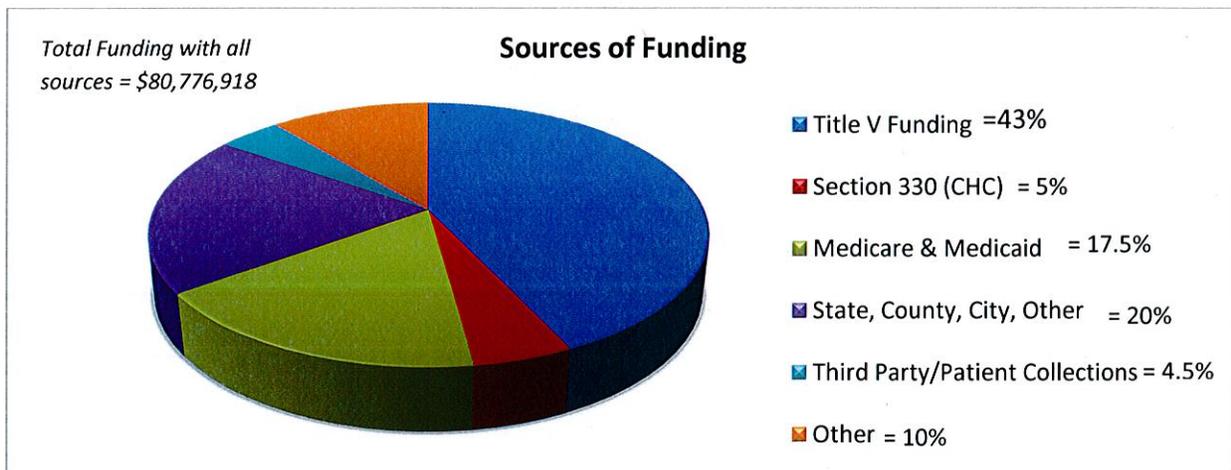
demonstrates the alarming health disparities of Urban Indians. The following statistics show rates that are significantly higher than the general U.S. population:

Health Issue	Percent higher than U.S. Population
Diabetes	54%
Chronic liver disease and cirrhosis	126%
Mortality (due to accidents)	38%
Alcohol related deaths	178%
Sudden Infant Death Syndrome	157%

These statics demonstrate the continuing need for the Urban Indian Health Program. Moreover, the ongoing recession has added additional stressors to urban Indian communities such as rising unemployment, loss of health insurance, and homelessness. Many urban Indian health programs have seen their new patient numbers soar during the past year while also watching many traditional sources of resources wither. The Hunter Health Clinic in Wichita Kansas reported an additional 1,200 new patient inquires in one month alone when the local airplane construction company closed down. The NATIVE Project in Spokane, WA reported increased seeing roughly 25 to 50 new patients a month for a period of several months when tribal business failed, forcing Indian people to relocate from their reservation homes to the urban centers to search for work. Many Indian health programs are facing the same strain on their already stretched resources. The need of urban Indian people for these programs as a source of health care and community stability is great, and this need will only continue to grow if the economic environment continues to decline, or if the economic recovery is a jobless recovery.

Leveraging Funding to Increase Services

Title V health programs and clinics excel at leveraging their Indian Health Service dollars to obtain additional funding from other Federal, State, and local sources. The breakdown of how Title V clinics and health programs are able to leverage funds is show below:

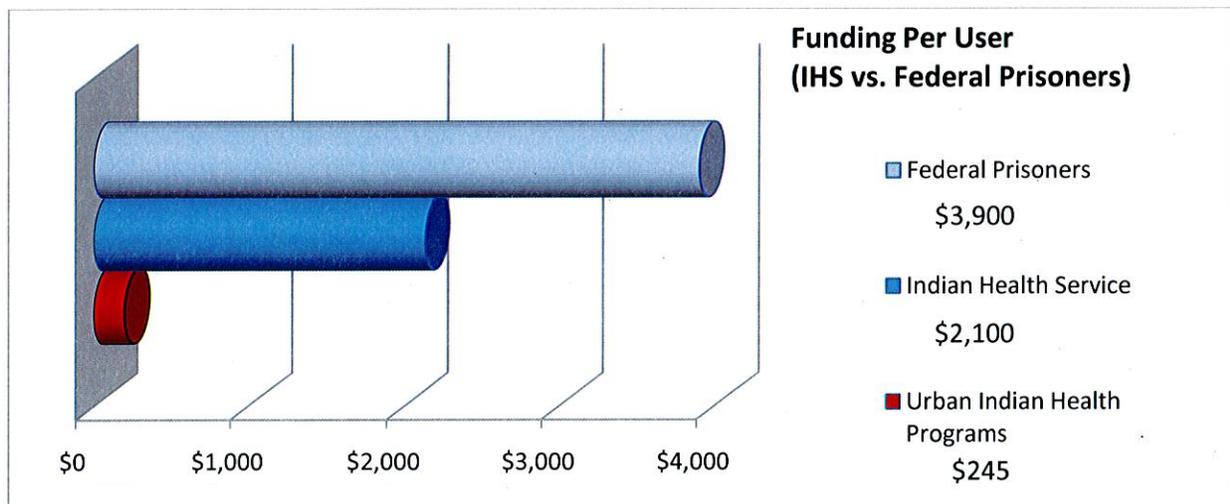


As a general rule the 36 programs and clinics constituting the Urban Indian Health Program are able to leverage two new dollars for each dollar of original investment. The ability of the program to effectively seek out additional funding by leveraging the base funding from IHS makes the UIHP a sound investment of Federal funding.

While Title V programs are adept at finding other sources of funding, they are only able to do so through a solid initial investment by the Indian Health Service. When that base funding is insufficient to maintain core services the competitiveness of the Urban Indian Health Programs for other private and federal grants is badly damaged. When the competitiveness of the UIHP clinics and programs is damaged it is ultimately the urban Indian patients that suffer.

Comparison of Funding Allocation

The fact that the Indian Health Service continues to be desperately underfunded is widely known. The FY2010 Congressional Appropriations made great strides to address this disparity, and NCUIH is relieved that the Indian Health Service was not included in the Obama Administrations' FY2011 budget freeze. The Interior Appropriations Subcommittee has long recognized the need for the UIHP and consistently sought to fund the UIHP and the entire IHS at the highest possible level. NCUIH hopes that Congress will not only follow the White House's lead, but also build upon the modest increases in the President's FY2011 Budget Request. Despite these modest increases in President's FY11 Proposed Budget, the Indian Health Service continues to be underfunded. Due to the chronic underfunding of the Indian Health Service, the Urban Indian Health Program is also desperately underfunded as the chart below demonstrates:



In light of this data, the National Council of Urban Indian Health urges Congress build upon the Obama Administrations' suggestions and work towards fully funding not only IHS but the UIHP line item. Furthermore, the ongoing recession has forced many states to cut their health programs and Medicaid reimbursements to the bone, drastically undercutting key sources of

funding for urban Indian health clinics. With an economy in a recession and unemployment rates continuing to rise, many clinics are reporting increased patient loads that are straining their already tight budgets. Health care costs are one of the primary reasons for individual bankruptcy filings. If AI/AN patients are unable to receive care at UIHP clinics and programs the likelihood that they will be forced into bankruptcy increases, which then increases the likelihood of their return to their home reservations, thus straining tribal budgets and social services.

Moreover, unlike Community Health Centers, the Indian Health Service, and other federally funded health programs, the Urban Indian Health Program did not receive any funds under the American Recovery and Reinvestment Act. This left urban Indian health programs to deal with the impact of the recession unbolstered by the increase in federal funds other health programs received. Despite the increase in funds under the FY10 Congressional Appropriations, which is only just now being dispersed to Urban Indian Health Programs, the UIHP is still significantly underfunded and struggling with the affects of the recession. As the recession leads States to continue to slash Medicaid reimbursements and eligibility, as well as other critically need health and social welfare programs, the urban Indian health programs are increasingly dependent upon federal funds through the UIHP line item to make up for lost revenue. With the history of the UIHP underfunding and in light of the continuing economic troubles, the National Council of Urban Indian Health respectfully asks for a \$4 million dollar increase over the FY11 President's Proposed Budget to \$50million for the Urban Indian Health Program line item.

Budget Request

The National Council of Urban Indian Health is asking for a \$4 million increase for Urban Indian Health Programs over the President's FY2011 Proposed Budget for a total of \$50million for the UIHP line item. While this elevation in funding will not address the total need, it will help NCUIH and the UIHPs accomplish several goals in the future.

1. Improve access to and quality of health care services for AI/ANs living in urban areas.
2. Serve the unmet needs of the Urban Indian Health Program population.
3. Stabilize service levels in the face of increased State budget cuts and shortfalls.
4. Develop a Health Information Technology (HIT) system that effectively captures health status and patient care data.
5. Develop, expand, and stabilize the UIHP 3rd Party billing capacity.

TESTIMONY
of
LAC DU FLAMBEAU BAND OF LAKE SUPERIOR CHIPPEWA INDIANS
APPROPRIATIONS SUBCOMMITTEE ON INTERIOR, ENVIRONMENT AND RELATED AGENCIES
FY2011

This testimony is respectfully submitted on behalf of the Lac du Flambeau Band of Lake Superior Chippewa Indians, located in Wisconsin, and reflects the needs, concerns and issues of the Tribe's membership regarding the proposed FY 2011 Budget. We believe that the FY 2011 Budget reflects the Administration's dedication to addressing funding shortfalls that have plagued Indian Country and its continuing dedication to building a nation-to-nation relationship with tribes. However, while we support much of the Budget's proposals, we do have concerns.

Because the Tribe embraces the Seventh Generation concept and believes that without a healthy Mother Earth we cannot have healthy people now or in future generations, we are very supportive of the inclusion of the Circle of Flight program in the base budget. The proposed FY 2011 Budget provides \$600,000 in the Tribal Management/Development Program (TMD) account for this important program after years of its exclusion from the base budget. Circle of Flight provides critical resources necessary to restore and preserve wetlands and waterfowl populations, which are vital to the culture and economy of the Great Lakes region. Improved tribal wetland habitats supports waterfowl and other bird species especially in the spring and fall migrations, provide expanded hunting opportunities for tribal members and the general public, and offer enhanced wild rice gathering opportunities. In addition to protecting these natural resources, returning this funding to the base budget will support economic development in this region and assist the Tribe in the hiring of 1.5 FTE employees – specifically a Wildlife Biologist and Wildlife Technician – to implement and support these programs.

We also support the overall budget for the Environmental Protection Agency. Specifically, we support the \$8.5 million in GAP grant funding and the \$30 million for the new multimedia grant program to assist tribes with implementing environmental compliance programs on tribal lands, such as those under the Clean Air Act or RCRA. It is important for tribes to protect their members by ensuring that their lands are healthy and sustainable – just as important as it is for federal and state governments to protect their citizens. While we are concerned that funding for the Clean Water and Drinking Water State Revolving Funds were decreased by \$93 million, we fully support the increased Tribal set-aside. We support the continued funding for the Great Lakes Restoration Initiative, but ask that funding for the Initiative be returned to FY 2010 levels of \$475 million to provide the opportunity for the restored funds to allow the Tribe to maintain our Great Lakes Restoration Specialist and continue to restore habitats on the Reservation.

The Lac du Flambeau Tribe supports the proposed increase to the Bureau of Indian Affairs' budget for Indirect Costs to 94% of the FY 2007 level. However, the Tribe is concerned with the proposed \$19.4 million absorption of fixed costs. It is anticipated this absorption would amount to a reduction of funding for fixed costs, such as for salary and fringe, by \$12.4 million in Indian Country. This is money we just cannot absorb at this time. Health Care costs are still

rising at an alarming rate, which continues to compound the problem. Therefore, the Lac du Flambeau Tribe requests Congress restore the \$19.4 million dollars to the BIA Budget.

Our support for and concerns regarding the proposed FY 2011 Budget for Natural Resources, Law Enforcement and Higher Education are below.

I. Natural Resources

Tribes are leaders in natural resource protection and BIA natural resource funding is essential for maintaining our programs. Lac du Flambeau has a comprehensive Natural Resources Department and dedicated staff with considerable expertise in natural resource and emergency and land management. Among other activities, our Department raises fish for stocking, collects data on water and air quality, develops well head protection plans, conducts wildlife surveys and administers timber stand improvement projects on our 86,000-acre Reservation. All of these activities speak directly to our Tribe's economic, environmental, and physical health. Unfortunately, natural resource programs have been cut or flat-funded for many years now, and tribes have been forced to lay off staff and shut down programs, leaving critical resources in jeopardy.

Conservation Law Enforcement Officers. One of the critical elements of our Natural Resource program is our Conservation Law Enforcement Officers. These Officers are primarily responsible for enforcing hunting and fishing regulations related to the exercise of treaty rights, but they also have a much larger role in law enforcement. They are often the first to respond to emergency situations, handle the management of environmental emergencies, such as forest fires or tornado damage, and are the first line of defense for illegal activity on the Reservation. The lack of adequate law enforcement resources on reservations is a well-known problem that plagues the public safety of tribal communities. Conservation Law Enforcement Officers are an incredibly important part of protecting our treaty rights and enabling us to protect our communities by supplementing our law enforcement presence.

Unfortunately, our Conservation Officers are now 100% dependent on tribal funds. This costs the Tribe \$248,000 annually, in addition to the \$682,700 the Tribe pays for its non-conservation law enforcement programs. The Bureau of Indian Affairs does not provide any resources for this activity, which plays a significant role in protecting our community and is critical to maintaining and protecting our treaty rights. Protection of our natural resources is the protection of our treaty rights. The Tribe's funding can only support two Conservation Officers on duty at a time to patrol a 144 square mile Reservation that includes 260 lakes, 24,000 acres of wetland and 46,000 acres of forested land. If the BIA is unable to provide money to allow our Conservation Officers to continue their important mission, Federal officers will have to step up to take over and uphold the United States' binding obligations toward these treaty rights. We request that money be provided in the Budget for Conservation Law Enforcement programs.

Forestry. The Tribe continues to request that the Subcommittee increase funding for BIA Forestry Programs. Our Reservation contains 46,000 acres of forested land that supports hunting, gathering and employment opportunities for tribal members. Proper management of the forest is essential not only to sustain our subsistence lifestyle, but also to provide economic

growth for the Tribe. We recognize that in this tough economic time, the Administration and Congress must make tough choices. However, it would be more costly if sensible resource management is sacrificed. Forest management not only provides a mechanism for economic development for tribes, it is a fundamental activity that protects forested communities from wildfire, enhances resource conservation and combats climate change.

Commercial forestry provides Tribes with an important source of economic revenue and job creation. In our Tribe, two foresters and one technician undertake a broad range of management activities, including tree planting, prescribed burning, forest road design and maintenance and timber sale establishment and administration. If properly funded, timber sales could provide a source of tribal revenue. Forest management activities provide important wildfire suppression functions and manage invasive species. If forest management programs go unfunded, the future costs of destruction due to wildfires or invasives could be devastating.

The total cost of operating the forestry program is approximately \$217,000. In the last several years the level of funding from the BIA has been less than half of this, and the program has not received substantial funding increases since FY 1991. The proposed Budget reflects a decrease of \$156,000 in funding for BIA Forestry Projects. We request that Congress reject the decrease to this already underfunded program and begin to fully invest in protecting our forested lands.

Fish Hatchery. The Lac du Flambeau support the \$3.6 million provided for Fish Hatchery operations and the \$2.8 million provided for Fish Hatchery maintenance. This is equal to the funding provided in the FY 2010 Budget and is an amount triple that provided in FY 2009.

Historic Preservation. In 1995, Congress began encouraging tribes to assume historic preservation responsibilities as part of self-determination activities. It is estimated that in FY 2011 there will be 100 tribes approved by the Secretary of the Interior to administer historic preservation programs. These programs conserve fragile places, objects and traditions crucial to tribal culture, history and sovereignty. As was envisioned by Congress, more tribes qualify for funding every year. In FY 2001, there were 27 Tribal Historic Preservation Officers (THPOs) with an average award of \$154,000 per tribe. Currently, while the number of tribes operating THPO programs has increased, Lac du Flambeau now only receives \$74,145. Paradoxically, the more successful the program becomes overall, the less each tribe receives to maintain professional services, ultimately crippling the programs. To provide a minimum level of services, these offices require at least \$120,000. Therefore, we request that the Budget provide the minimum \$120,000 for each tribe operating a THPO program.

II. Law Enforcement

We commend the focus the Administration and Congress has placed on improving public safety in Indian Country. As we all know, tribal communities experience a highly disproportionate level of crime and adequate law enforcement resources have been woefully underfunded for decades. The rate of violent crime for Native Americans is more than twice the national average. The Administration has shown its commitment to addressing public safety issues by holding a series of listening sessions throughout Indian Country. We believe that these

listening sessions have led to the repackaging of tribal criminal justice programs in the FY 2011 Budget for the Department of Justice in an attempt to create a more flexible tribal criminal justice program. Unfortunately, we believe that some funds provided to the BIA for public safety are misdirected.

Specifically, we do **not** support the \$19 million to be used for the BIA to reimburse the DOJ for 45 additional FBI agents dedicated to Indian Country. While we greatly appreciate the intent to increase law enforcement presence in Indian Country, we do not believe \$19 million for only 45 FBI agents is the most efficient or effective way to increase public safety in tribal communities. While 45 additional FBI agents would significantly increase law enforcement presence if they were dedicated to only a handful of communities, the reality is that it is too small of a number for all of Indian Country to feel the affect. Essentially, approximately 365 federally-recognized tribes would not see the effects of this increase in FBI presence.

Instead of overspending on a few FBI agents and their support staff, we believe that the \$19 million would be of better use if it were put towards Conservation Law Enforcement Officers. As was mentioned earlier in our testimony, these Officers provide the first line of defense for many tribal law enforcement departments. They perform the same public safety functions as do law enforcement officers, and protect our natural resources. We feel that staffing Conservation Law Enforcement officers is a more efficient use of the money and will put more boots on the ground in Indian Country.

III. Higher Education

To continue the progress Indian Country has made in participation and control of education programs and schools, it is imperative that funding for tribal higher education programs be increased. The Tribe's high school graduation rates are improving, but are still far below national standards. President Obama has repeatedly expressed his commitment to national education programs, and in his address to Indian Country he made a commitment to honor "obligations to Native Americans by providing tribes with the educational resources promised by treaty and federal law." We embrace that commitment, but we want to remind you that the need for support does not lie only with high schools. Our students who want to pursue higher education need our continued support.

The Budget proposes \$2.164 million for Special Higher Education Scholarships (SHEP) to support Indian students working for graduate degrees. We strongly support the SHEP program, but are concerned that funding for it has remained flat over the last couple of years. Tribal communities have made great strides in educating their youth. Those strides are evident in the fact that more Indian students are attending and graduating from colleges and other post-secondary institutions. However, tribal communities must continue to evolve with other communities. The national and global economy has changed –students must earn graduate degrees to remain competitive. After making progress in Indian education, Indian students cannot be allowed to fall behind again because of lack of access to higher education programs.

Contacts: Mary J. Pavel at Sonosky, Chambers, Sachse, Endreson & Perry, LLP
1425 K Street NW, Ste 600, Washington D.C. 20005; 202-682-0240 (tel); mpavel@sonosky.com

**TESTIMONY OF
Mr. Tracy 'Ching' King
President
Fort Belknap Indian Community
Fort Belknap Indian Reservation, Montana**

**BEFORE THE UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEE ON INTERIOR, ENVIRONMENT, AND RELATED AGENCIES**

March 23, 2010

I am pleased to be here today to provide input for the Bureau of Indian Affairs and Indian Health Service FY2011 Budgets on behalf of the 6,700 Gros Ventre and Assiniboine tribal members of the Fort Belknap Indian Reservation located in North Central Montana.

My testimony today is directed towards the Fiscal Year 2011 Appropriations budget of the Bureau of Indian Affairs, Indian Health Service and Education programs. Tribal governments, just like state and municipal governments, provide critical services, shape values, and promote jobs and growth on our respective reservations. Though federal spending for Indians has lost ground compared to spending for the U.S. population at large, tribal self-governments have proven that the federal investment in tribes pays off.

Our local tribal governments which address the concerns and needs of our local constituents have the most at stake, we are the party responsible for our citizens and ultimately the ones most accountable for the economic conditions, and protection of our reservation communities. The following information is provided to you through the Fort Belknap Indian Community Council and in collaboration with the programs funded through P. L. 93-638 programs contracted by our tribal government.

**BUREAU OF INDIAN AFFAIRS
CORRECTIONS, LAW ENFORCEMENT & TRIBAL COURTS
Detention/Corrections**

Requesting \$2,000,000. in funding for additional staffing and equipment for our

detention officers working in our facility that is to be completed in October 2010. We need 18 staff members to cover rotating shifts, and operation and maintenance of the new facility. The current budget for the Fort Belknap Corrections Division is \$79,618. far less that what we need to operate a safe environment for offenders.

Law Enforcement

Requesting \$1,543,000 in funding to provide law enforcement services on the 725,000 acre reservation. Basic needs include armored vests, outdated duty weapons, replace old patrol units and updated computer technology. We currently offer inadequate salaries for our law enforcement officers. Tribal police departments cannot compete for officers that are compensated by county, state, and Bureau of Indian Affairs salaries. Once trained in BIA academies, the officers then leave for higher paying jobs which include health incentives and other benefits that attract officers. The cost of training officers to very high as Tribes must cover their salary of the officer being trained for 12-16 weeks, and their replacements who stay at home to provide law enforcement services.

Tribal Courts

Requesting \$632,754 to fund additional staff positions, update computer software/data collection systems, provide staff training and update technology.

LAND

Tribal Land Department

Requesting \$2,000,000 to upgrade our tribal land department to develop and implement technology that would put all of the tribal leases and land holdings onto computers to make them compatible with the BIA and state departments.

ROADS MAINTENANCE

Roads Maintenance

Our roads maintenance department is responsible for the system that encompasses the 725,000 acres of our reservation. The severe Winter this year depleted the funding of this program as our snow plows and crews worked 24/7 during the storms. This department is also responsible for maintaining our road system throughout the fiscal year. This Winter we spent \$175,00 for snow removal alone.

OIL & GAS & MINERALS

Gas, Oil, and Mineral Development Office

We are desperately in need of professional staff assisting the Tribal Council in developing an energy department within the tribal structure that will have the expertise in the development of our tribal energy resources of gas, oil and minerals. We are requesting \$200,000 for start up funds for this endeavor.

WATER

Indian Water Rights and Water Compact Settlements

We ask that you continue to recognize the Indian Water Rights of Tribes across this country. Fort Belknap is the home of the Winters Doctrine, where Indian reserved water rights began, and is the doctrine that protects these rights beginning with the U.S. Supreme Court decision. Support for water claims in Congress now and in the future is important. We will be submitting a compact settlement in excess of \$250 million to Congress in the near future for funding.

Irrigation Projects & Attorney Fees

Requesting \$1,250,000 for continued operation and maintenance of the Milk River Irrigation Project that provides quality water services to area farmers and ranchers for stock and crop production. Additionally, **we are requesting \$150,000 for Water Rights Attorney fees** to assist the Tribal Council with litigation and assistance in submitting our water compact to Congress.

EDUCATION, EMPLOYMENT & TRAINING

Higher Education Scholarships

Higher Education Scholarship funding for Indian students are needed to attract and support individuals into the education, health other noteworthy professions. These students once graduated would come back to reservations and provide high quality medical services to our tribal members. Increase funding level by \$20 million.

Tribal College Funding

Increase the amount of funding for Fort Belknap College and tribal colleges across the nation for students receiving funding in the amount of \$8,000 per student as they currently only receive half of that amount. Black Colleges funding for their students is twice that amount and our students deserve the same.

Employment and Training Programs

Requesting \$2,000,000 for workforce training/development and summer youth employment programs to prepare tribal members especially our young adults that would prepare them for future employment. We have over 400 adults and 900 youths needing assistance.

CONTRACTUAL SUPPORT

We request that funds be provided to the Bureau of Indian Affairs for an increase in this line item for all of the P. L. 93-638 programs that Tribes across the country need to support these programs

INDIAN HEALTH SERVICE

WATER TREATMENT PLANT

Fort Belknap requests Operation and Maintenance costs for the following public water supply operations in the reservation communities. On Fort Belknap there are five (5) different water systems that serve the communities of the Agency, Lodge Pole, and Hays. We have a total of 3,000 water users from 591 service connections and it costs \$776,498 annually to operate the system. Limited customer revenue and a small tribally paid subsidy generates \$234,610, leaving a balance of \$543,888, which the Tribe cannot afford. We are experiencing a shortage of operation and maintenance funds. **We are requesting an annual funding amount of \$543,888.** to pay the operation and maintenance costs of these systems.

Special Diabetes Programs for Indians & Dialysis Center for Patients

Additional funds for our diabetes patients need increased funding to properly diagnose and treat this deadly disease. **We strongly support a funding level of \$200 million for SPDI.** We desperately need dialysis centers on reservations as our people have to travel great distances to receive these treatments causing great hardship to them and also a financial burden on tribes.

Substance Abuse & Mental Health Services Administration (SAMHSA)

Request that you increase the funding to SAMHSA grants to \$15 million nationwide in order that Indian tribes such as Fort Belknap can apply.

Indian Professionals

Scholarship funding for Indian students are needed to attract and support individuals into the health professions. These students once graduated would come back to reservations and provide high quality medical services to our tribal members.

Facilities & Construction

At Fort Belknap, we are currently building new residential quarters to attract health professionals. Since construction costs have sky rocketed we were only able to build a six-plex and 10 homes. The original plan was to build 29 homes but due to high construction costs this was down sized to 16 homes. We need an additional \$8 million to complete the entire project.

Suicide and Methamphetamine Treatment and Prevention Initiative

We fully support the an increase to \$16.4 million for this program. We have had 1 suicide and 4 attempts this past month. But, we also want the IHS to develop and utilize a distribution plan of these funds.

**Steven C. Begay, General Manager
Diné Power Authority, a Navajo Nation Enterprise**

**Testimony Before the
House Interior Appropriations Subcommittee
Public Witness Hearing on Native American Issues**

Tuesday, March 23, 2010

Requests:

- **Committee's Support for Adequate Funding at Interior and EPA for Completion of Permitting and Other Matters Related to the Development of the Desert Rock Energy Project**
 - **\$1 Million for DPA Renewable Energy and Transmission Planning Studies – Department of the Interior, Bureau of Indian Affairs, Office of Indian Energy and Economic Development; or Department of Energy, Energy Efficiency and Renewable Energy or Electricity Delivery and Energy Reliability**
-

Chairman Moran, Ranking Member Simpson and members of the House Interior Appropriations Subcommittee, thank you for this opportunity to provide testimony on the funding needs for the largest economic development project ever planned for Indian Country – the Desert Rock Energy Project - as well as for critical renewable energy and transmission studies for the Navajo Nation and the Southwest.

I am the general manager of the Diné Power Authority, also known as DPA. DPA is the Navajo Nation entity responsible for utility-scale power generation and transmission development on Navajo lands, the largest contiguous Native reservation in the United States. DPA's mission is a reflection of the Navajo Nation's sovereignty over its land and resources and commitment to achieving a sustainable, reservation-based economy for the nearly 200,000 members who live on the reservation.

DPA's Largest Initiative is the Desert Rock Energy Project (DREP), a \$3.4 billion mine-mouth, coal-fired power plant that would generate up to 1,500 MW located on the Navajo Nation in the Four Corners Area of New Mexico. Desert Rock would have the lowest regulated emissions of any pulverized coal-fired plant in the United States. This project, which would create thousands of jobs during its four-year construction phase, and then upon completion 200 jobs in the power plant and another 200 jobs in the adjacent Navajo Mine, is absolutely critical to the economic future of the Navajo Nation, one of the most impoverished areas of the United States, with 50% unemployment. The project would generate approximately \$50 million for the Navajo Nation in the first year of operation, an amount that would increase each year thereafter, resulting in a \$1.5 billion increase to the Navajo treasury in its first 30 years of operation.

Federal Agencies have Moved at a Glacial Pace on the DREP Permitting Process. DREP received its air permit from the Environmental Protection Agency in July 2008. However, in Spring 2009, the EPA withdrew the air permit citing the need to consider a number of factors including the question of Desert Rock's carbon emissions. This was frustrating to the Navajo Nation as the EPA had deemed Desert Rock's air permit application complete in 2004, and pursuant to the Clean Air Act, the agency was required to issue a decision on the permit within 18 months. Despite significant additional studies to ensure compliance with Clean Air Act requirements, a lengthy and twice-extended public review and comment process, and many millions of dollars spent, as we sit here today DREP does not have its air permit. It is notable that coal projects in Illinois and Colorado, which were at the same stage of permitting in 2004, are now under construction. Why is this project, located on Indian lands, put at such an incredible regulatory disadvantage to other projects? The Navajo Nation is similarly frustrated by continued delays in the federal Environmental Impact Statement (EIS) process, which has dragged on for years.

The Navajo Nation is actively engaged with both the EPA and the Department of the Interior in an effort to bring these regulatory processes to closure in a reasonable time frame. DPA urges this Committee to include in the FY 2011 Interior appropriations bill sufficient funds to ensure that EPA and Interior are adequately resourced to complete the DREP regulatory processes and report language tasking them with moving these processes forward on an expedited basis.

DPA is working on a broad portfolio of renewable energy projects, but critical studies need to be completed. The Navajo Transmission Project (NTP) is a 469-mile high voltage transmission line connecting the generation-rich Four Corners region of the desert southwest with the growing load demand in states such as Arizona, Nevada and California. This project is the only high-voltage system of its size and length that is permitted. DPA is in the process of working with the key Federal agencies to update the 1997 Record of Decision approving the project. Once built, the Navajo Transmission Project would not only provide a transmission path for renewable energy, it would also eliminate a major gap in the Southwestern high-voltage transmission grid, a long-term goal of the Federal Energy Regulatory Commission, regional utilities and consumers.

DPA requests \$1 million to conduct important planning and analysis work on a wide-range of renewable energy and transmission projects now before DPA including: the Grey Mountain and Black Mesa wind energy study; completion of the eastern terminus study of the Navajo Transmission Project (including its inter-relationship with the East NM-cross Arizona to Marketplace, Nevada HV DC transmission project); evaluation of the Big Bo large-scale solar (2000MW to 8000MW) project proposal, the Paragon Ranch solar (200MW) project proposal, and the New lands solar (20MW) project development, and others similar proposals that have been presented to the Navajo Nation; analysis of Navajo Transmission Project Segment 3 for multiple use, as well as evaluation for AC only, to AC-DC conversion, or keep AC and add DC (two or more lines) alternatives; analysis of renewal or extension of the AZ ACC CEC for off-reservation NTP Segment

3; resolution of the Hualapai and BLM issues in Segment 3; consultation with other Department of Interior (e.g., US Fish and Wildlife) and other federal agencies, (e.g., US Forest Service), and discussions with California and LADWP, or similar groups for off-take of renewal power; evaluation of private land acquisition issues in the western part of the NTP Segment 3; and a review of the changing load demand and load supply projections in the southwest to match the proposed renewable energy load sources to these revised, projected electricity demands.

It is important to note that the Energy Policy Act of 2005 specifically authorizes funding to the Dine Power Authority:

Section 505. Four Corners Transmission Line Project and Electrification

(a) Transmission Line Project.- The Dine Power Authority, an enterprise of the Navajo Nation, shall be eligible to receive grants and other assistance under section 217 of the Department of Energy Organization Act, as added by section 502, and section 2602 of the Energy Policy Act of 1992, as amended by this Act, for activities associated with the development of a transmission line from the Four Corners Area to southern Nevada, including related power generation opportunities.

Conclusion. After a total investment of nearly \$60 million, DPA and its private partners are close to commencing construction on nearly \$4 billion worth of energy development projects. However, timely Federal support and involvement remains vitally important to this effort. We urge the Committee to support the requests outlined above. Thank you, again, for this opportunity to testify.

UNITED TRIBES TECHNICAL COLLEGE

3315 University Drive
Bismarck, North Dakota 58504
701-255-3285

Submitted to the House and Senate Interior, Environment and Related Agencies
Appropriations Subcommittees

David M. Gipp, President

March 19, 2010

For 41 years, United Tribes Technical College (UTTC) has provided postsecondary career and technical education, job training and family services to some of the most impoverished Indian students from throughout the nation. Unemployment among the Great Plains tribes, where 75% of our students are from, typically run at about 75%. Nearly half who are employed are living under the poverty line (2005 BIA Labor Force Report). We are governed by the five tribes located wholly or in part in North Dakota; we are not part of the North Dakota state college system and do not have a tax base or state-appropriated funds on which to rely. We have consistently had excellent retention and placement rates and are a fully accredited institution. Bureau of Indian Education (BIE) funds represent about half of our operating budget and provide for our core instructional programs. These funds are authorized under Title V of the Tribally Controlled Colleges and Universities Act.

The requests of the UTTC Board for the FY 2011 BIE/BIA budget are:

- \$6.4 million in BIE funding for UTTC for our Indian Self-Determination Act contract, which is \$2 million over the FY 2010 enacted level. This is our base funding.
- \$4.375 million toward Phase I of a planned Northern Plains Indian Police Academy located at UTTC.
- \$3 million for Phase II of our Science and Technology Building.
- \$3 million for student housing on our South Campus to accommodate an increasing student population and also for anticipated needs related to a law enforcement academy.
- \$23 million increase over the budget request for Administrative Cost Grants for BIE-funded elementary and secondary schools for a total of \$69 million; this is not funding for our college, but rather for tribally-operated elementary and secondary schools.

Base Funding. UTTC administers its BIE funding under an Indian Self-Determination Act agreement, and has done so 33 years. Funds requested above the FY 2010 level are needed to: 1) maintain 100 year old education buildings and 50 year old housing stock for students; 2) upgrade technology capabilities; 3) provide adequate salaries for faculty and staff (who have not received a cost of living increase this year and who are in the bottom quartile of salary for comparable positions elsewhere); and 4) fund program and curriculum improvements, including at least three four-year degree programs.

Acquisition of additional base funding is critical as UTTC has more than tripled its number of students within the past six years but actual base funding for educational services, including

Carl Perkins Act funds has increased only 25 percent in that period (from approximately \$6 million to \$8 million). Our BIE funding provides a base level of support allowing the college to compete for discretionary contracts and grants leading to additional resources annually for the college's programs and support services.

Indian Police Academy. We have been working toward the establishment of a police training academy on our campus. We have done this with the encouragement of our Congressional delegation and tribes, especially those in the Northern Plains. To that end we signed a Memorandum of Understanding in 2008 with the BIA and the American Indian Higher Education Consortium to provide supplemental in-service training to BIA and tribal police officers as maybe agreed upon by the BIA. In FY 2010, \$250,000 was appropriated to the BIA and designated as special initiative of the Indian Police Academy in New Mexico to work with UTTC on law enforcement training matters. That is a good first step but we need to move to establishment of a full fledged police training academy for BIA and tribal police in the Northern Plains. The only Indian police academy now is in Artesia, New Mexico which, while doing excellent work, can train only 3 classes of 50 persons annually. There is an attrition rate of 47 percent, thus graduating on average 80 officers each year. Of those graduates, one-half will leave law enforcement as a career or move to an agency outside of Indian Country. The BIA estimates that tribal police officers are staffed at only 58 percent of need.

Our specific request for \$4.375 million is for Phase I of the police academy facility, which will include the basic building for instruction of 35,000 sq. ft., enough to train up to 165 law enforcement officers per year. We have entered into discussions with federal, local and state officials to ensure the facility and the training we offer will meet all requisite standards, and to coordinate what part of the facility should be placed at UTTC and which parts may be placed elsewhere, in order to share the cost.

UTTC testified before the Senate Committee on Indian Affairs on March 18, 2010, regarding law enforcement training, recruitment, and retention needs in Indian Country. We will make available to you our testimony from that hearing.

Math and Technology Building. UTTC provides education for more than 1,000 students in 100-year old former military buildings (Ft. Abraham Lincoln), along with one 33-year old "skills center" which is inadequate for modern technology and science instruction. We have completed Phase I of the building and now look to complete Phase Two. We have raised \$5 million, including \$1 million in private funding, \$3 million from the U.S. Department of Education and \$1 million in borrowed funds, and anticipate an additional \$1 million from the U.S. Department of Education Title III funds. The total project cost is expected to be around \$12 million. Our current facility lacks laboratories with proper ventilation and other technologies which are standard in science education. We lack a modern auditorium/lecture hall with features such as computer internet access and electrical outlets and a library with appropriate computer stations. Our present library has been cited by the accrediting agency as being inadequate.

Student Housing. We are constantly in need of more student housing, including family housing. We want to educate more students but lack of housing has at times limited the admission of new students. With the expected completion of a new Science and Math building

on our South Campus on land acquired with a private grant, we urgently need housing for up to 150 students, many of whom have families. New housing on the South Campus could also accommodate those persons being trained in our Northern Plains Police Academy.

While UTTC has constructed three housing facilities using a variety of sources in the past 20 years, approximately 50 percent of students are housed in the 100 year old buildings of the old Fort Abraham Lincoln, as well as in duplexes and single family dwellings that were donated to UTTC by the federal government along with the land and Fort buildings in 1973. These buildings require major rehabilitation. New buildings for housing are actually cheaper than trying to rehabilitate the old buildings that now house students.

Administrative Costs Grants for Elementary/Secondary Schools. As noted above, we recommend a \$23 million increase over the Administration's request for Administrative Costs Grants for BIE-funded, tribally-operated elementary and secondary schools. We have such a school on our campus – the Theodore Jamerson Elementary School. While Congress has, thankfully, recently increased funding for BIA and IHS Contract Support Costs for tribal governments, it has not done so for the tribally controlled BIE-funded elementary and secondary schools. The equivalent to CSC for these schools is Administrative Cost Grants.

Below are some important things we would like you to know about our College:

UTTC Performance Indicators. United Tribes Technical College has:

- An annual 80-90% percent retention rate.
- A placement rate of 94 percent (job placement and going on to four-year institutions).
- A projected return on federal investment of 20-to-1 (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 one of only two tribal colleges accredited to offer accredited on-line (Internet based) associate degrees.
- More than 20 percent of graduates go on to four-year or advanced degree institutions.

Our students. Our students are from Indian reservations from throughout the nation, with a significant portion of them being from the Great Plains area. Our students have had to make a real effort to attend college; they come from impoverished backgrounds or broken families. They may be overcoming extremely difficult personal circumstances as single parents. They often lack the resources, both culturally and financially, to go to other mainstream institutions. Through a variety of sources, including funds from the BIE, UTTC provides a set of family and culturally-based campus services, including: an elementary school for the children of students, housing, day care, a health clinic, a wellness center, several on-campus job programs, student government, counseling, services relating to drug and alcohol abuse and job placement programs. We are currently serving 168 students in our elementary school and 169 youngsters in our child development centers.

UTTC course offerings and partnerships with other educational institutions. We offer accredited vocational/technical programs that lead to 17 two-year degrees (Associate of Applied Science and eleven one-year certificates, as well as a four year degree in elementary education in cooperation with

Sinte Gleska University in South Dakota. We intend to expand our 4-year degree programs. While full information may be found on our web site (www.uttc.edu), among our course offerings are:

Licensed Practical Nursing. This program results in great demand for our graduates; students are able to transfer their UTTC credits to the North Dakota higher educational system to pursue a four-year nursing degree.

Medical Transcription and Coding Certificate Program. This program provides training in transcribing medical records into properly coded digital documents. It is offered through the college's Exact Med Training program and is supported by Department of Labor funds.

Tribal Environmental Science. This program is supported by a National Science Foundation Tribal College and Universities Program grant. This five-year project allows students to obtain a two-year AAS degree in Tribal Environmental Science.

Community Health/Injury Prevention/Public Health. Through our Community Health/Injury Prevention Program we are addressing the injury death rate among Indians, which is 2.8 times that of the U.S. population. This program has in the past been supported by the IHS, and is the only degree-granting Injury Prevention program in the nation. Given the overwhelming health needs of Native Americans, we continue to seek resources for training of public health professionals.

Online Education. Our online education courses provide increased opportunities for education by providing web-based courses to American Indians at remote sites as well as to students on our campus. These courses provide needed scheduling flexibility, especially for students with young children. They allow students to access quality, tribally-focused education without leaving home or present employment. We offer online fully accredited degree programs in the areas of Early Childhood Education, Community Health/Injury Prevention, Health Information Technology, Nutrition and Food Service and Elementary Education.

Criminal Justice. Our criminal justice program leads many students to a career in law enforcement, and as noted elsewhere in this testimony, we are working toward establishment of a police training academy at UTTC.

Computer Information Technology. This program is at maximum student capacity because of limitations on resources for computer instruction. In order to keep up with student demand and the latest technology, we need more classrooms, equipment and instructors. We provide all of the Microsoft Systems certifications that translate into higher income earning potential for graduates.

Nutrition and Food Services. We help meet the challenge of fighting diabetes and other health problems in Indian Country through education and research. As a 1994 Tribal Land Grant institution, we offer a Nutrition and Food Services AAS degree in order to increase the number of Indians with expertise in nutrition and dietetics. There are few Indian professionals in the country with training in these areas. We have also established a Diabetes Education Center that assists local tribal communities, our students and staff to decrease the prevalence of diabetes by providing food guides, educational programs, training and materials.

Our BIE and Perkins funds provide for nearly all of our core postsecondary educational programs. Very little of the other funds we receive may be used for core career and technical educational programs; they are competitive, often one-time supplemental funds which help us provide the services our students need to be successful. We cannot continue operating without BIE funds. Thank you for your consideration of our requests.



Dzilth-Na-O-Dith-Hle Community Grant School

35 Road 7585, Box 5003

Bloomfield, New Mexico 87413

Telephone: (505) 632-1697 Fax: (505) 632-8563



“FOR EACH CHILD — SUCCESS”

Testimony of Faye BlueEyes, Program Director
DZILTH-NA-O-DITH-HLE COMMUNITY GRANT SCHOOL (DCGS)
Navajo Nation, Bloomfield, N.M.
regarding

Bureau of Indian Education Fiscal Year 2011 Budget

House Interior, Environment and Related Agencies Subcommittee
March 23, 2010

H
O
M
E

O
F

T
H
E

M
U
S
T
A
N
G
S

Good afternoon. I am Faye BlueEyes, Program Director at Dzilth-Na-O-Dith-Hle Community Grant School ("DCGS") on the Navajo Reservation in Bloomfield, New Mexico. My testimony will focus on four areas of FY 2011 funding request for the Bureau of Indian Education (BIE):

- **Tribal Grant Support Costs** – the proposed increase of \$3 million would still leave a shortfall of over \$23 million
- **Student Transportation** – the proposed funding of \$52.8 million would be a decrease from the FY 2010 level, despite spiraling transportation-related costs
- **Facilities Maintenance** -- the budget request of \$50.7 million would result in level funding for the 5th year in a row, despite increased maintenance costs due to the age of our facilities and great need for preventive maintenance measures
- **Facilities Operations** – although the FY10 level supplied less than 50% of need, the FY11 budget request seeks to further decrease this funding.

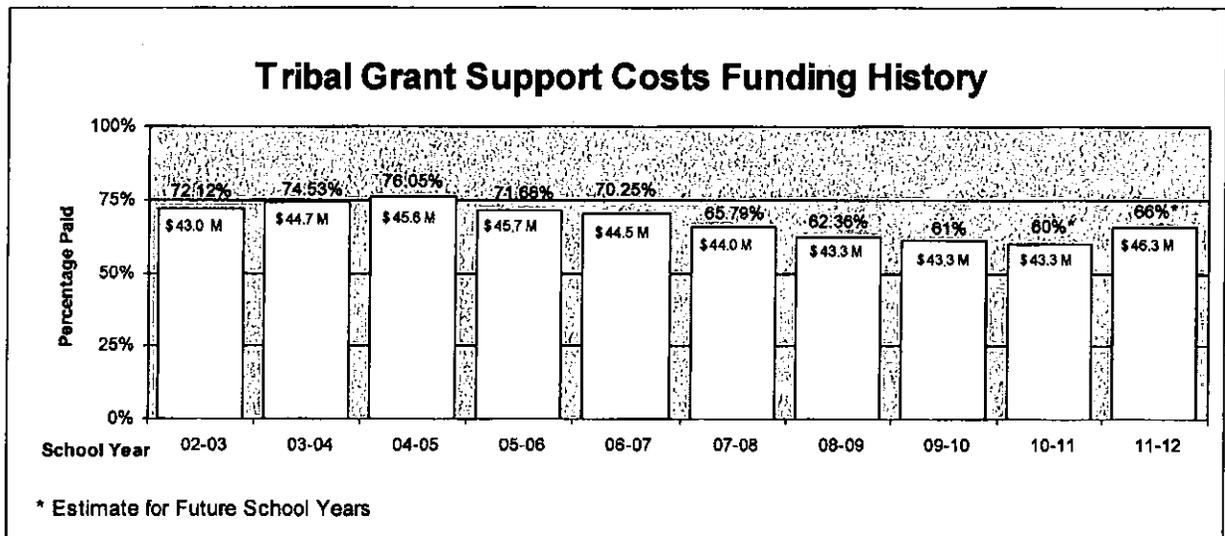
Our school operates a K-8 educational program and a dormitory for students in grades 1-12. The residential students in grades 9-12 attend the local public school. Currently, 200 students are enrolled in our academic program, and 51 students are housed in the campus dormitories. Our all-Navajo Board operates the DCGS through a Grant issued by the Bureau of Indian Education (BIE) under the Tribally Controlled Schools Act. Our mission at DCGS is to make a difference in the educational progress of our students and we believe that all our students are capable of achieving academic success.

TRIBAL GRANT SUPPORT COSTS

Even though BIE seeks a \$3 million increase for Tribal Grant Support Costs, the agency admits its \$46.3 million request would provide only 66% of administrative costs needs of tribally-operated schools in School Year (SY) 2011-12. Of course, this optimistic prediction is dependent on no other schools converting to tribally-operated status. If any do, the pay rate would drop since the BIE did not seek separate funds for the transitional costs associated with such conversions. Instead BIE merely asks for bill language to allow it to supply these new TCGS obligations from the \$46.3 million request – which would leave that much less to distribute among the tribally-operated schools with on-going contracts/grants.

The projected 66% pay rate is still far below what the Administration seeks in order to address long-standing indirect costs shortfalls for BIA and IHS *non-school* contractors. For the BIA, the Administration requests an increase of **\$19.5 million** in order to pay contract support costs (CSC) at **94%**, and an additional \$2 million for the Indian Self-Determination Fund to pay CSC of new contractors. For IHS contract support costs, the Administration seeks a **\$40 million** increase. These amounts are even more astounding when you take into consideration that in FY10 the BIA received an \$18.7 million contract support increase, and the IHS received an additional \$116.1 million, while *tribally-operated schools received NO increase since SY04-05*.

As the following chart shows, the percentage of TGSC need paid has steadily declined since SY04-05 to the current SY09-10 level of 61%, and the amount appropriated has never been sufficient to pay more than 76.05% of need.



Insufficient Tribal Grant Support Costs means that we constantly have to absorb more and more administrative expenses and cut back on prudent management activities. We have had to reduce our management staff to the point that our ability to maintain prudent internal controls and checks and balances is compromised.

Full funding of the BIE's Tribal Grant Support Costs obligation would require \$70.2 million – \$23.8 million above the budget request. If budgetary constraints preclude full funding this year, we ask the Committee to at least fund TGSC at the same 94% level at which BIA proposes to pay non-school tribal contractors.

STUDENT TRANSPORTATION

The requested amount of \$52.8 million is expected to provide a SY11-12 payment rate of \$3.27 per mile. This would be an increase of only 15¢/mile from the SY09-10 rate and no increase over the estimated SY10-11 rate (funded by the FY10 appropriations act). The result is less than the national school transportation costs average despite ever-increasing fuel and bus repair costs. The BIE estimates that 15% of the total BIE transportation miles are on dirt or unimproved road

Our DCGS buildings are more than 40 years old and showing their age. The meager facilities maintenance funding has been insufficient to even enable us to "keep up appearances," much less address the serious deficiencies that come with aging electrical, heating, cooling and plumbing systems. Our inadequate electrical system can't support the educational technology necessary for today's students. Our unreliable heating and cooling systems make it impossible to maintain a comfortable classroom climate; some parts of the school are very hot while other classrooms are very cold.

An extremely worrisome problem is leaking sewer lines which run under the school and the dormitory. The smells alone make students and staff ill, and the growing mold compounds the problem. We don't have the funds to remediate this situation. Our students and staff should not have to put up with these conditions that threaten their health and safety.

FACILITIES OPERATIONS

The Administration proposes a \$147,000 decrease for Facilities Operations in order to achieve Department-wide savings. Since we are already receiving only about 46% of need, a request to further decrease this account is very discouraging. Nearly all of our Facilities Operations funds must be used to pay utility costs which are constantly increasing. In the last school year, we spent nearly \$200,000 for electricity and natural gas, and we expect the utility companies to increase their rates further.

Since our costs are increasing, not decreasing, failure to provide significantly more funding for facilities operations means our measure of un-met need will become greater than it already is. We ask Congress to provide a significant increase to address the \$50.5 million shortfall in Facilities Operations funding.

CONCLUSION

It is our hope that Congress will recognize the tremendous need that continues to exist in our BIE-funded schools and takes the steps to provide the resources that the Administration has not sought. Thank you for your continuing support to our Indian children.

If you need further information, you may contact us by phone at 505.632.1697 or you can reach Ms. Blue Eyes via email at heywoman87417@yahoo.com.



CALIFORNIA RURAL INDIAN HEALTH BOARD, INC.

March 23, 2010

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

My name is James Allen Crouch. I am Executive Director of the California Rural Indian Health Board, Inc. I am here today to address Indian Health Service appropriations issues for FY 2011.

The California Rural Indian Health Board, Inc. (CRIHB) is a Tribal Organization operating under the authorities of the Indian Self Determination Act, providing health care services and technical assistance to 29 tribes and their Tribally Operated Health Programs. We are a founding member of the National Indian Health Board (NIHB) and proud of the fact that CRIHB Chairman, Reno Keoni Franklin (Kashia Pomo), currently serves as Chairman of the NIHB. In addition to the IHS funded services we provide to 29 tribes in California, CRIHB operates two programs funded by the CDC and two programs funded by SAMHSA that benefit individual Indian people, Tribes and Tribal Health Programs in California, as well as Nevada, Utah, Washington, Oregon, and Idaho. We are also funded by the IHS to serve as the California Tribal Epidemiology Center and the Dental Support Center for the California Area. Finally, we operate a number of smaller statewide projects funded by the State of California and private foundations in California. These diverse responsibilities give us a unique "front line" perspective on the problems that confront Tribally Operated Health Programs in California and beyond.

CRIHB was founded in 1969 by Tribes in California to bring back IHS funded services to California, after twenty years of being neglected as a result of federal termination policy. In 1972, this Committee overturned that policy and funded the first IHS programs in California. This past October, CRIHB turned forty years old -- but our work is not yet finished. Today, the IHS program in California suffers from chronic under-funding, a lack of infrastructure, and is burdened by debt; the initial promise remains unfulfilled. Today, all IHS direct care services in California are provided by a network of 30 Tribally Operated Health Programs (TOHP) that provide services across thirty-seven mostly rural counties with an average operating unit size of 1,875 active users. These TOHP seek to meet the needs of 107 federally recognized tribes and approximately 78,000 American Indian and Alaska Native clients. Uniquely, 25% of those served in California are members of tribes located outside of the state and another 25% are Californian Indians whose tribes have yet to achieve federal recognition. The California Area is one of only two IHS Areas that have no IHS Hospitals to provide inpatient and specialty services. Of the four so-called "CHS Dependent Areas", California has the second lowest Level of Need Funded, the second lowest CHS allocation per active user, and the absolutely lowest CHEF utilization rate of the entire IHS system. These are not new facts -- rather an ongoing crisis reflected in a decade of IHS funding history.

Many health problems in California are similar to those of the National IHS service population. CRIHB research has documented a hospitalization rate of 290/100,000 which is comparable to that experienced in the Aberdeen Area of North and South Dakota. California AIAN are hospitalized 45% more often than Whites, indicating a lack of access to primary care services. Heart Disease, Cancer, Unintentional Injuries, Diabetes, and Chronic Liver Disease are the

4400 Auburn Blvd., 2nd Floor, Sacramento, CA 95841

Phone: 916-929-9761 • 800-274-4288 • Fax: 916-929-7246 • www.crihb.org • firstname.lastname@crihb.net

leading causes of death. Death rates due to diabetes are 350% higher for California AIAN than Whites; deaths due to alcohol are 280% higher. Of our SAMHSA Access to Recovery clients, 46% report Methamphetamine use - the highest reported rate in that national data set. These problems can and should be addressed. A recent CRIHB research project, based on five years of IHS and State data, documented that higher IHS funding of Tribally-Operated Health Programs in California was associated with lower hospitalizations for ambulatory care sensitive situations (HASC) for the AIAN who use them. Specifically, for Tribally-Operated Health Programs in California with less than 60% of health care costs funded, the HASC rate dropped 12% for every increase of 10% in funding of ambulatory care preventable hospitalizations.

It is our fervent hope that National Health Reform will solve many of these IHS funding issues by greatly expanding access to Medicaid coverage, closing the coverage gap in Part D Medicare, and establishing a new form of subsidized coverage for working Americans through regulated exchanges. Should this be the case, we urge the Committee to think deeply about the numerous implications for the Indian Health Service of this new and evolving operating environment. The IHS is a delivery system, not a form of insurance coverage and should be funded in ways that foster equal access to services and meet the court established criteria being rational, reasonable and defensible.

National Health Reform legislation also carries the reauthorization of the Indian Health Care Improvement Act, and with that the reauthorization of the California CHS Demonstration Fund. We are specifically requesting \$2,000,000 in Contract Health Service (CHS) funds to initiate the intermediate risk pool to cover costs below the threshold of the Catastrophic Health Emergency Fund (CHEF) as authorized in Section 211 of the IHCA and subsequent reauthorizations of that bill. In FY 2010, the IHS implemented a CHS distribution formula that attempts to address the lack of access to IHS funded hospital and specialty care. Although we are supportive of the policy that prioritizes what is commonly called "CHS dependence" we believe that the formula is deficient in not taking into account existing levels of funding. It is further deficient in that over time it will result in only marginal change in the relative funding between CHS Dependent and Non-CHS Dependent Areas. We support the president's request for \$46 million in program improvement funds for CHS and urge that of those funds \$2million be identified for the California CHS Demonstration Project.

Furthermore, we support the President's request for \$44 million in program improvement funds for the Indian Health Care Improvement Fund. This fund is distributed under a methodology that by law considers existing resources from IHS and non IHS sources, as well as the cost of providing a uniformly defined set of services across a diverse geography and all modes of delivery. The most effective method of addressing the lack of equal access to care across the whole IHS program would be a multi-year commitment to providing a truly significant portion of all new IHS resources to be distributed through the Indian Health Care Improvement Fund. This historically under-utilized process adopts the Federal Employees Health Benefit Package (FEBP) as a benchmark to compare against the available IHS and CMS funds at the operating unit level. This focus on available funding allows for comparison across a diverse delivery system that spans multiple health service markets. The benchmark cost is actuarially adjusted for age sex and social economic factors to reflect the IHS client population. The difference between the adjusted FEBP costs and the available IHS and CMS resources is then calculated and is referred

to as the Level of Need Funded, and all 269 Operating Units are ranked on this scale. With limited funds, Congress has tried to target their commitment to the least well funded: Operating Units with less than 40% of their need funded. However, to date, Congressional allocations to the IHCIF have failed to match medical cost inflation and have yet to lift the 47 poorest operating units to the 40% level. To bring this group to 40% would take an additional \$9 million in new funds. To bring all units up to 45% would take only \$45 million, to achieve 50% funding only \$122 million, and to achieve 60% for all operating units would take only \$388 million in new appropriations to the IHCIF. These threshold numbers may be reduced by increases in the other IHS health services line items, but only the IHCIF targets the vast inequity that exists within the system. Minimally, the achievement of a modest threshold of 60% Level of Need Funding should be set by this Committee and could be done incrementally over a three year period.

We support the President's request to provide \$40 million in program improvement funds for the Contract Support Cost line item. These Funds are essential for maintaining program integrity to assure appropriate governance, financial management, and core operating costs. Tribally Operated Health Programs are the only class of governmental contractors who are not fully funded for these costs. National shortfalls prior to the allocation of the FY 2009 OBRA were documented by the IHS as \$121,900,000. Of this amount, Tribally Operated Health Programs in California have a documented shortfall of \$12,621,782. CRIHB and our subcontracting Tribal Health Programs are owed \$2,993,949. Congress should address this shortfall and end this operational burden that falls on only a portion of the IHS program: those that choose to assume operational responsibility for their portion of the IHS program under the Indian Self Determination Act.

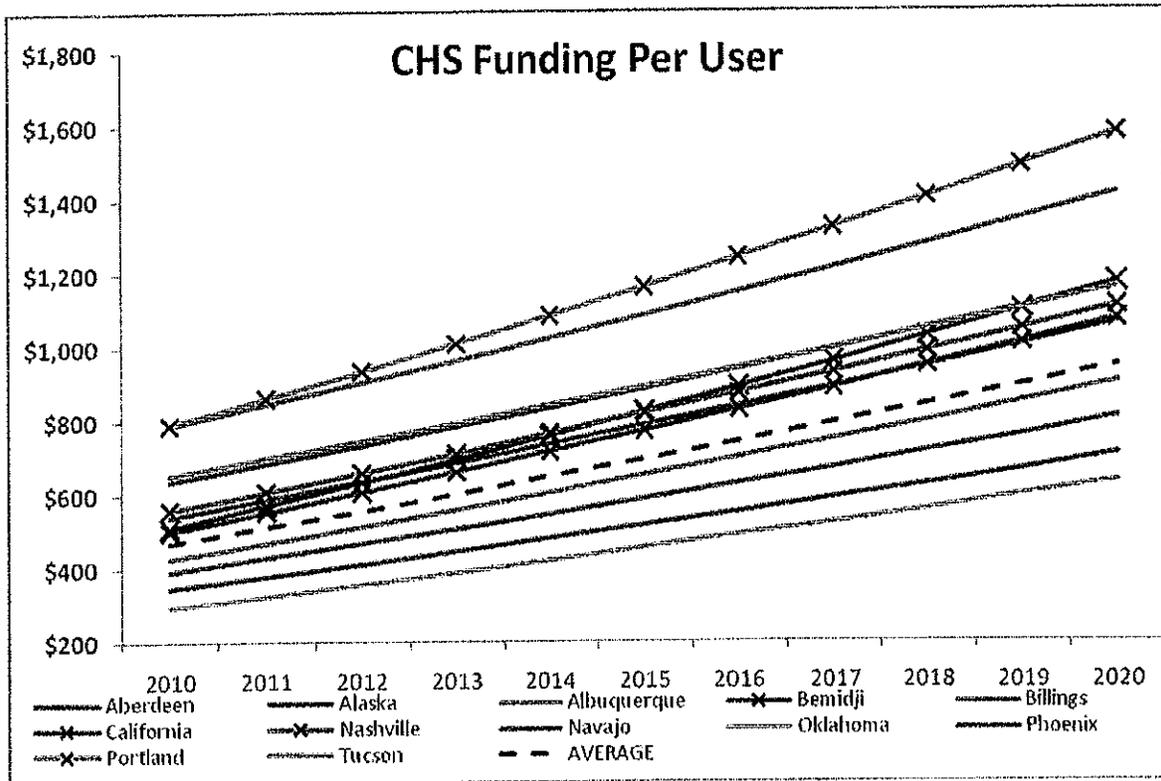
The IHS Facilities Construction has yet to build a single health facility in California. In truth, most of our facility access needs are better met through a robust Contract Health Services program. We have 172,000 square feet of IHS supportable space, built with grants, loans, and third party collections. This strategy is born from desperation and has significant impacts, as both loan repayment and sequestering third party funds result in an ongoing reduction in the level of health care services that can be provided to our clients. To address this distortion, Congress should increase their investment in the Joint Venture and Small Ambulatory Grant program. This is especially true if this Congress authorizes the Tribal version of the Indian Health Care Improvement Act, which would allow for the use of SAP funds to retire loan amounts used to create IHS supportable space. Clearly, there are interactions between the IHS services budget and the facilities budget. Potentially, there is a positive exchange between facility construction and CHS funding in the measurement of program equity; this needs to be more fully analyzed and developed. Similarly, there is a need to think more clearly about the annual impact on overall IHS program equity when significant amounts of scarce program funding must be allocated to staff the facilities of the luck few who acquire facility construction funds. This is especially true as the system prepares to staff up \$227 million in ARRA construction projects.

The Indian Health Service has reported their budget justification document that their transition to the new RPMS Electronic Health Record system is substantially completed. They are asking for a new allocation of \$4 million for Health Information funding as they move forward to achieve

“meaningful use” of their legacy system. Last year this system received \$81 million in ARRA funding. Of those funds \$ 3 million was set aside to assist Tribally Operated Health Projects to build interface software to improve interoperability with the IHS Data Center. Those funds have yet to be distributed. CRIHB fully supports the move towards increased use of Health Information Technology by the IHS; the request for \$4 million in program improvement funds, and the establishment of a new line item for these costs. However, this years’ committee report should direct the IHS to begin sharing there resources on the same basis with non RPMS using Tribal Health Programs.

The graph below tracks the impacts of allocating CHS funds under the current formula over a ten year period, assuming full funding for inflation and population growth and sufficient funds to distribute 100,000,000 based on a 75% for active user count and 25% for service units populations that have no access to IHS funded hospital services. Under this formula California received almost \$9 million in new funds for FY2010 and some would lead you to believe that this formula gives too much money to the CHS Dependent Areas. I would tell you that over a decade of generous allocation like that proposed for FY 2011 that the rate of change is modestly incremental because disparity in the existing base funding is compounded with each succeeding annual distribution as documented in the graph below.

CHS Funds per Active User Projected at 4.5% +1.5% plus \$46 million





NATIONAL JOHNSON-O'MALLEY ASSOCIATION

PO Box 126

Okmulgee, Oklahoma 74447

(918) 732-7839

*"We are the elected voice and liaison to Congress for JOM Programs
Nationwide"*

**TESTIMONY OF THE
NATIONAL JOHNSON O'MALLEY ASSOCIATION
BEFORE SUBCOMMITTEE ON INTERIOR
AND RELATED AGENCIES**

March 23, 2010

Chairman Moran, Ranking Member Simpson, and Members of the Subcommittee, my name is Harold L. Dusty Bull and I am the program Director for the Blackfoot Johnson O'Malley program (JOM) of the Blackfoot Nation of Montana. I am here today representing the National Johnson O'Malley Association, which I serve as Vice President.

Mr. Chairman, congratulations on your recent appointment as Chairman of this subcommittee. We look forward to working with you more closely. I understand that you are a champion of the indigenous people of Virginia and I thank you for that.

We educators in Indian Country are always happy to be in your company. The previous administration tried to eliminate the JOM program. But for our good friends in Congress supporting us through the appropriations process, the JOM program would have waned out of existence.

I'm here to tell you about JOM and give you an update on the fiscal year 2011 appropriations request.

What is JOM?

The Johnson O' Malley Act was enacted in 1934 to allow the Department of the Interior to provide assistance to Indians in the areas of education, medical attention, agricultural assistance, social welfare, and relief of distress because of findings that Indians needed support to transition from Indian-only settings to general population settings such as the environments found in public schools and in urban areas. Seventy-six years later, JOM continues to provide critical support to Indian kids – most of which live in impoverished areas.

JOM grants provide Indian tribes, school districts, tribal organizations, and parent committees supplemental funds designed to address the unique and specialized educational needs of Indian students enrolled in public schools or non-sectarian schools. The purpose of JOM grants is to provide supplementary financial assistance for Indian students ages 3 to grade 12. JOM have historically provided basic resources so that

Indian students can participate in school like their non-Indian peers, which, in turn, gives them a chance to achieve academically.

Without JOM program dollars, Indian students at all academic standings, both remedial as well as gifted and talented, would not be able to afford things such as college counseling, athletic equipment, eye glasses, after school tutoring, or culturally specific education, resume counseling, summer school, scholastic testing fees, school supplies, transition programs, musical instruments, Native youth leadership programs, financial aid counseling, caps and gowns, art and writing competitions. Other programs administered by the federal government, such as funding through the Department of Education, do not allow funding for these types of activities.

Our program at Blackfeet spends a good portion of our JOM dollars on after school programs and parenting classes designed to get parents more involved in their kids' education.

Our Appropriations Request

Along with our partner, the National Indian Education Association, we request a total of \$24 million for JOM, which was the FY06 enacted level. The FY10 enacted amount (and the enacted amounts from FY07 through FY09) was \$21.4 million, which was only partial restoration of JOM funding. President Obama's FY11 budget requests \$21.273 million, a decrease of \$256,000 from the FY10 enacted level.

Even with the funding requested, \$24 million will not keep pace with the extraordinary needs in Indian Country. In 1995, a freeze was imposed on JOM funding through DOI, 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.

We urge this committee to work with us to lift the funding freeze to ensure that tribes are receiving funding for their student populations at a level that will provide access to a high quality education.

Finally, we hope that this committee will urge the DOI to appoint one staff person who can assist JOM programs moving forward. Much can be gained by having a person at the Department specifically charged with fulfilling the intent of the regulations. Additionally, we simply need someone in Washington who is dedicated to understanding and advocating internally for our program.

I am very grateful for this opportunity to testify and stand ready to answer any questions you may have.

CHAIRMAN
Joseph Brings Plenty, Sr.

SECRETARY
EvAnn White Feather

TREASURER
Benita Clark

VICE-CHAIRWOMAN
Sharon Lee



P.O. Box 590
Eagle Butte, South Dakota 57625
Telephone: (605) 964-4155
Facsimile: (605) 964-4151

March 23, 2010

Joseph Brings Plenty, Sr.
Chairman
Cheyenne River Sioux Tribe

**Testimony before the U.S. House of Representatives, Committee on Appropriations,
Subcommittee on Interior, Environment and Related Agencies for the FY 2011 Budget**

Good afternoon Chairman James Moran (D-VA), ranking member Michael Simpson (R-ID), and honorable members of the U.S. House of Representatives, Committee on Appropriations, Subcommittee on Interior, Environment and Related Agencies. Allow me to recognize important changes within the subcommittee by offering my congratulations to Chairman Moran on being selected as the new subcommittee chairman, and to offer my best wishes to former Chairman Norm Dicks (D-WA). The tradition of allowing Public Witness Testimony on Native American Issues is an important Congressional venue for tribes and tribal organization nationwide. As the Chairman of the Cheyenne River Sioux Tribe, I serve a *Lakota* (Sioux) or Native American constituency from the fourth largest land based tribe in the nation. Also, I serve as the Chairman of the Council of Large Land Based Tribes, which was established to counter the inequities on agendas created by national organizations from smaller, wealthier tribes. And, I serve the larger *Lakota-Nakota-Dakota* (Sioux) community in North Dakota, South Dakota and Nebraska as the Vice-Chairman of the United Sioux Tribes Development Corporation, which was organized by the Sioux chairmen, presidents and tribal chairs in 1952. I respectfully offer this testimony to the subcommittee for Fiscal Year (FY) 2011. The Cheyenne River Sioux Tribe's (CRST) Fiscal Year (FY) 2011 funding request summary is as follows:

The blue represents the thunder clouds above the world where live the thunder birds who control the four winds. The rainbow is for the Cheyenne River Sioux people who are keepers of the Most Sacred Calf Pipe, a gift from the White Buffalo Calf Maiden. The eagle feathers at the edges of the rim of the world represent the spotted eagle who is the protector of all Lakota. The two pipes fused together are for unity. One pipe is for the Lakota, the other for all the other Indian Nations. The yellow hoops represent the Sacred Hoop, which shall not be broken. The Sacred Calf Pipe Bundle in red represents Wakan Tanka - The Great Mystery. All the colors of the Lakota are visible. The red, yellow, black and white represent the four major races. The blue is for heaven and the green for Mother Earth

TRIBAL COUNCIL MEMBERS

DISTRICT 1
Ardys Cook
Bryce in the Woods

DISTRICT 2
Ted Knife, Jr.

DISTRICT 3
Maynard Dupris
Edward Widow

DISTRICT 4
Sharon Lee
Frank Thompson
Kevin Keckler
Merrie Miller White Bull

DISTRICT 5
Ryman Le Beau
Raymond Uses Knife
Derek Bartlett
Robert Walters

DISTRICT 6
Dixie LeCompte
Michael Rousseau

Agency, Programs and Funding Request

1. To appropriate \$66.5 million to the Cheyenne River Sioux Reservation/Mni Waste' Water Project (serving Dewey, Ziebach, Mead and Perkin counties in South Dakota), **under Public Law 110-114, Section 5129 and 5158 (253)** of the *Water Resources Development Act of 2007*; and
2. To authorize and appropriate \$14.9 million to the **Indian Health Service's Cheyenne River Sioux Tribal New Facilities Staffing**; and
3. To increase \$5.5 million to the Bureau of Indian Affairs, Cheyenne River Sioux Tribe's Tribal Priority Allocation request for the **Law Enforcement Department**; and
4. To authorize and appropriate **New School Construction** dollars, 86 Million for Cheyenne Eagle Butte School, 16 Million for Takini High School and 10 million for our Headstart programs totaling \$112 million, **Tribal Education Department**
5. To authorize and appropriate \$250,000 To the Bureau of Indian Affairs for Cheyenne River Sioux Tribes **Wolakota Piece Making Circle**.
6. To authorize and appropriate \$713,000 to the Bureau of Indian Affairs' Cheyenne River Sioux Tribal **Seventh Generation Youth Council**; and
7. To authorize and appropriate \$63.4 million to the **Indian Reservation Roads Program** for the Cheyenne River Sioux Tribe; and
8. To authorize and appropriate \$80.5 Million to our **Cheyenne River Housing Department** through NHASDA.
9. To authorize and appropriate \$948,136 to HIP, **Home Improvement Program** for Cheyenne River Sioux Tribe.
10. To authorize and appropriate \$1.5 million to the Bureau of Indian Affairs' Cheyenne River Sioux Tribal **Prairie Management Program**; and

Implementation of the Sioux Act 1888

I am honored to be invited and testify before the U.S. House of Representatives, Committee on Appropriations, Subcommittee on Interior, Environment and Related Agencies for the FY 2011 Budget. I noted the U.S. Library of Congress keeps an old photograph dated October 15, 1888. The photograph shows where U.S. Commissioners and delegations of Sioux chiefs had visited Washington, D.C., and paused for a picture taken by C.M. Bell on the east façade of the old U.S. Capitol Building. The names of Sitting Bull, Gall, John Grass, He-Dog, Two Strike, American Horse, and Drifting Goose are listed. I am humbled in many ways. I am humbled by the physical courage and fearlessness these men showed at the Battle of Powder River, Honsinger Bluff, Slim Buttes, Little Big Horn. I am humbled by the wisdom our leaders displayed by refusing to sell the Black Hills. I am humbled by their statesmanship. Let me offer a few moments to portray

Lakota (Sioux) statesmanship to the subcommittee. The best compliment you may offer a traditional *Lakota* leader is not that he is “chief” or “warrior” or “holy man,” but that he is *ikéce wícaśa* or a common man. A common man is invested with honor, courage, generosity, compassion, tolerance, humility and wisdom known as the seven values of the Lakota People. Lastly, I am humbled by our leaders or *ikéce wícaśa* who now stand with me and before this committee in spirit. I respectfully request that the promises made to my ancestors be considered here today.

Water Resources Development Act of 2007

The Cheyenne River Sioux Tribe (CRST) was struck by a debilitating ice storm and blizzard on January 20, 2010, which broke over 3,000 utility poles, rendered 10,000 tribal members and 2,000.00 non-tribal members without heat, water and electricity for over two weeks.¹ The Federal Emergency Management Agency (FEMA) through the tribal liaisons’ was able to offer help until an inventory was completed based upon tribal need; meanwhile, I made an unlikely contact. Keith Olbermann of Countdown MSNBC assisted us with several Quick Comments on his program. I was interviewed while watching my breath become visible with every syllable uttered and in my own home. I thank Tunkasila/God nobody died in that 40 degree below zero weather.² We needed water in that storm. We need water now. Our waterline and water treatment plant are at capacity. A moratorium was placed upon new tribal housing development since FY 2004. The Water Resources Development Act of 2007 overrode a Bush veto and authorized \$66.5 million for the tribe under Public Law 110-114, Section 5129 and 5158 (253). I have testified on this same issue before this subcommittee since FY 2007. I respectfully request the subcommittee appropriate \$66.5 million under existing authorities in the Act of 2007, including an added \$23.9 million for index costs that total \$90.4 million in all.

Cheyenne River Sioux Tribal Prairie Management Program

The Cheyenne River Prairie Management Program is responsible for restoring and preserving the mixed grass prairie ecosystem on the Reservation. Its goals are to improve land productivity by implementing range management practices that focus on the reduction of erosion, improvement

¹ The Huffington Post. 2010. South Dakota Sioux Tribe Seeks Emergency Assistance After Ice Storm. January 27. http://www.huffingtonpost.com/2010/01/27/south-dakota-sioux-tribe_n_438827.html (accessed on March 22, 2010).

² Juarez, Leo. 2010. NBC Field Notes. Help for Storm Battered Sioux Tribe. February 24. <http://fieldnotes.msnbc.msn.com/archive/2010/02/24/2211602.aspx> (accessed on March 22, 2010).

of wildlife habitat, control of noxious weeds and the black-tailed prairie dog, as well as bison enhancement and endangered species recovery. This Program has been funded annually by a special congressional appropriation since FY 1995. The Prairie Management Program was funded at \$1.5 million in FY 2003; however, funds were eliminated in FY07 due to Bush era reductions. U.S. Senator Tim Johnson (D-SD) was able to secure a \$990,000 program earmark for the tribe in FY 2010; however, the program is unfunded in the President's FY 2011 Budget. Accordingly, I urge the subcommittee to restore the Prairie Management Program to FY 2003 levels for \$1.5 million, which will assist the tribe to manage over 2.8 million acres.

CRST Funding Request Summary

Under the category of "*Agency, Programs and Funding Requests*," I respectfully requested \$14.9 million be authorized and appropriated for our Indian Health Service's Cheyenne River Sioux Tribal *New Facilities Staffing*, \$112 Million for *New School Construction* for Cheyenne River Sioux Tribe, \$250,000 for The *Wolakota Piece Making Circle*, \$713,000 for our *Seventh Generation Youth Council*, including \$63.4 Million for the *Indian Reservation Roads Program*, \$80.5 Million for Nhasda to our *Tribal Housing Authority*, \$948,000 to the Tribe for HIP the *Home Improvement Program*. Also, I respectfully request to our Bureau of Indian Affairs' Tribal Priority Allocation re, \$5.5 Million for our *Tribal Law Enforcement Department*.

Per Chairman's Request, United Sioux Tribes

Recently, the U.S. Forest Service issued a Final Programmatic Environmental Impact Statement for Geothermal Leasing in the Western United States without even notifying the Sioux tribes. One of the national forests listed on the agreement is the Black Hills National Forest. Also, the U.S. State Department is working with TransCanada to create an integrated pipeline through North Dakota, South Dakota, Nebraska and Montana without any meaningful government-to-government consultation with Sioux tribes as required under Executive Order 13175. We are not consulted by the U.S. Forest Service and Black Hills National Forest or U.S. State Department on anything. The United Sioux Tribes Development Corporation is requesting \$1.2 million for two programs to address the lack of consultation from federal land and resource management agencies through the Bureau of Indian Affairs' Operation of Indian Programs, Community and Economic Activity for the *Indian Jobs Placement Program-United Sioux Tribes (CFDA 15.061)* and \$1.2 million for the *National Tribal Cultural Resources Database Program*. The South

Dakota State Legislature supports these projects by enacting House Concurrent Resolution 1010 and 1011 on February 25, 2009. North Dakota Governor John Hoeven and South Dakota Governor Michael Rounds issued letters of support. Thank you for your consideration.

**Brian Patterson, President
United South and Eastern Tribes, Inc.**

**Testimony before the
House Interior Appropriations Subcommittee
Public Witness Hearing on American Indian Issues**

Tuesday, March 23, 2010

Request: USET urges the Interior Appropriations Subcommittee to support funding increases substantially above the inflation rate for Tribal Priority Allocations, Contract Support Costs, Tribal Courts, and Scholarships, within the Bureau of Indian Affairs and Bureau of Indian Education budgets, Department of the Interior

Introduction. The United South and Eastern Tribes, Inc. (USET), is an inter-tribal organization representing 25 federally recognized Tribes from Texas across to Florida and up to Maine. The USET Tribes are within the Eastern Region of the Bureau of Indian Affairs (BIA), covering a large expanse of land and area compared to the Tribes in other Bureau of Indian Affairs Regions. USET Tribes can be found from the Canadian Border in Maine and New York, along the east coast to Florida, west into Mississippi and south into Texas. Due to this large geographic area, the tribes in the Eastern Region have incredible diversity.

This testimony is focused on the Bureau of Indian Affairs (BIA) and the Bureau of Indian Education (BIE). It does not address in detail critical priorities for Indian health care, Indian Housing, energy development, culture and heritage, language and natural resources strategy. With regard to those areas, USET endorses the national Tribal priorities for funding the Indian Health Service through HHS, Indian Housing programs through HUD, Indian language and culture through the Department of Education, Tribal Historic Preservation Officers through the National Park Service budget, and other important Tribal budget priorities.

Most of the USET BIA and BIE budget priorities are in-line with the identified national Tribal priorities; however there are several areas of concern that are specific to the Tribes of the Eastern Region. While USET believes that *all* Indian programs are vital to creating strong Tribal Governments, and that Congress should protect and improve current base funding levels for all programs, the USET priority programs are: *Tribal Priority Allocations, Contract Support, Tribal Court, and Scholarships.*

Tribal Priority Allocations (TPA). The Tribal Priority Allocation is the principal source of funds for tribal governments. Tribes have the latitude to prioritize TPA funding among numerous general categories, including Social Services, Resources Management, Tribal Government, Real Estate Services, Education, Public Safety & Justice, and Community & Economic Development. This flexibility is particularly important to USET, due to the diverse nature of our membership.

The 1999 Bureau of Indian Affairs Tribal Priority Allocation Report showed that the TPA base met only one-third of identified need. Considering the minimal funding increases since that time, coupled with inflation and population increases, the situation has only worsened. To catch up in part, USET believes that funding for the Eastern Region Tribes TPA needs to increase by at least \$9.4 million, even without considering our unmet historical needs.

Tribal Courts. As former Attorney General Janet Reno noted “fulfilling the federal government’s trust responsibility to Indian nations means not only adequate law enforcement in Indian Country, but enhancement of tribal justice systems as well.” Despite increases in FY 2010, the high cost of legal personnel (i.e. judges, prosecutors, attorneys, mediators) means that funding for effective Tribal courts needs to remain a priority. As cited in a Civil Right Commission Report, “the critical financial need of tribal courts has been well documented and ultimately led to the passage of the Indian Tribal Justice Act.”. Currently, in the Eastern Region only 46% of the tribes receive BIA funding for the operation of their tribal courts. Many of these courts have a judge that only hears cases once a month, raising due process concerns. Tribes do not have the funding to purchase much needed legal materials or to send personnel to relevant trainings. The need for tribes to establish drug courts is growing as more and more tribes face an increase in prescription drugs, methamphetamines and other controlled substances on tribal lands. Without tribal courts, tribes are not able to provide for the protection and well-being of their tribal members. Many programs such as Indian Child Welfare, Title IV-B, Adult Protection, and Child Support Enforcement require tribes to have established judicial systems in place prior to assumption of these programs.

Scholarships. Over the last several years, funding for BIA’s post-secondary education programs has remained largely stagnant. Despite the increasing costs of college tuition and other related costs, (between School Year 2001 – 2009 tuition costs increased by more than 26%), the average grant, \$2,700 per student, has remained the same for the last 5 years. The FY 2011 Indian Affairs Budget Justification states that tribes will experience a decline from the prior year in the number of scholarships. Even though the projected decline is slight, any decline is devastating considering the existing disparities. Due to funding limitations, most Tribes must turn students away or can only supplement partial scholarships for their tribal members. Tribal youth are increasingly interested in pursuing higher education degrees; however tribal graduates still remain far behind the number of graduates from other groups in America. Other financial aid and grant opportunities for higher education have been reduced in previous years, making it extremely difficult for most tribal students to afford pursuing higher education.

Effective educational systems are crucial for nurturing strong and self-reliant young adults. Strong emphasis on education in communities has shown reduced criminal and domestic violence rates, reduced cases of substance abuse, and reduced poverty levels while increasing the economic vitality of the community. Providing additional funding for BIA’s scholarship program is vital to fostering equity in higher educational attainment for Indians to other people groups in America.

Contract Support Costs. The FY 2011 President's Budget proposes a funding increase of \$21.5 million for Contract Support Costs. This complex funding area has been a priority issue for decades, not only for the Eastern Region Tribes, but for all Tribes operating federal programs. When Contract Support Costs are not fully funded the Tribes are forced to utilize limited direct program service dollars or tribal resources to cover shortfalls. The methodology behind Contract Support Costs basically dictates that Tribes need to identify resources to cover any shortfalls or they are at risk of entering into a "downward cycle" and the tribe's ability to effectively and efficiently manage federal programs is greatly impaired. This proposed increase, coupled with previous years' increases, brings the BIA to 94% level of achieving this obligation. Other Bureaus within the Department of Interior, as with other federal agencies, have achieved their obligation of paying a 100% contract support costs to their non-native contractors; this obligation cannot be ignored when it involves tribal '638 contractors.

Conclusion. All Indian programs are important and interconnected in the broad effort of bringing parity and progress to Indian country. To the extent that some areas may receive greater increases than others, USET would ask that base funding be protected for all programs but that additional funding go to the four priority areas described above. USET also asks that any additional funding go directly to the program/Tribal level and not be held for administration use at the central level.

The work of this Subcommittee is very important to Indian Country. Thank you for this opportunity to provide testimony. Please do not hesitate to contact me if you should have any questions.

NATIONAL TRIBAL CONTRACT SUPPORT COST COALITION

HEARING BEFORE THE HOUSE SUBCOMMITTEE ON INTERIOR, ENVIRONMENT,
AND RELATED AGENCIES ON THE FY 2011 BUDGET

March 23, 2010

Testimony of Lloyd B. Miller, Counsel, National Tribal Contract Support Cost Coalition

My name is Lloyd Miller. I am a partner in the law firm of Sonosky, Chambers, Sachse, Endreson & Perry, LLP of Washington D.C. and I serve as counsel to the National Tribal Contract Support Cost Coalition, comprised of 16 Tribes and tribal organizations situated in 10 States and collectively operating contracts to administer over \$414 million in IHS and BIA programs. I am here to discuss the legal duty and urgent need to fully fund the "contract support costs" that are owed these and other Tribes performing contracts and compacts on behalf of the United States.

Since the "contract support cost" issue arises in the context of the 1975 Indian Self-Determination Act, it is perhaps best understood in the context of what came before and after that Act. As the Committee is well aware, for much of the nineteenth and twentieth centuries tribal governments were marginalized and suppressed, and on occasion altogether extinguished, by a succession of deeply ill-conceived federal policies. By the late 1960s, so subjugated were tribal communities that hardly anything remained under the control of their governments. The BIA and IHS controlled every aspect of reservation life, from where children were schooled, to what they spoke, to what crimes were prosecuted, to who would and would not receive health care, to where and under what conditions the dead would be buried. The tribal governments that were active were often forced to be the BIA's agents, compelled to sign documents whenever the call came. In short, by the late 1960s the Federal Government had taken control of virtually all essential governmental services in Indian country, and the BIA and IHS maintained tribal communities in a perpetual state of dependence.

I mention this past because soon it would all change. Pressed by the civil rights movement, Presidents Kennedy, Johnson and Nixon gradually developed a very radical new direction in Indian affairs. In 1970 President Nixon formally called upon the BIA and IHS to release their grip on tribal communities, and to facilitate the return to the Tribes of their rightful role as the governments of and by their people, providing for themselves the essential governmental services that for too long the BIA and IHS had controlled from this distant Capitol. Five years later Congress responded by enacting the Indian Self-Determination and Education Assistance Act of 1975.

ALASKA NATIVE TRIBAL HEALTH CONSORTIUM
ARCTIC SLOPE NATIVE ASSOCIATION, LTD.
CHEROKEE NATION

CHIPPEWA CREE TRIBE OF THE ROCKY BOY'S RESERVATION
CHOCTAW NATION

CONFEDERATED SALISH AND KOOTENAI TRIBES
COPPER RIVER NATIVE ASSOCIATION
FOREST COUNTY POTAWATOMI COMMUNITY

KODIAK AREA NATIVE ASSOCIATION
LITTLE RIVER BAND OF OTTAWA INDIANS
PUEBLO OF ZUNI

RIVERSIDE - SAN BERNARDINO COUNTY INDIAN HEALTH
SHOSHONE BANNOCK TRIBES
SHOSHONE-PAIUTE TRIBES
SPIRIT LAKE TRIBE
YUKON-KUSKOKWIM HEALTH CORPORATION

No single enactment has had a more profound effect on more tribal communities than has the Indian Self-Determination Act. In virtually the blink of an eye, Tribes and inter-tribal organizations began seizing control of the BIA and IHS, taking over the administration of vast areas including health care, education, law enforcement and land and natural resource protection. Today, not a single Tribe in the United States is without at least one self-determination contract with each agency (either individually or as part of an inter-tribal consortium). From their humble beginnings in 1975, today the Tribes administer over **\$2.82 billion** in essential governmental functions that have been transferred under self-determination contracts and self-governance compacts, employing an estimated 35,000 people.

In the IHS Aberdeen Area, over 20% of the IHS budget is under contract to the Tribes. In Alaska, 100% of the IHS budget and most of the BIA budget has been contracted out to the Tribes. From the Navajo Nation to the Pacific Northwest to California to the Eastern Seaboard, Tribes in 35 States have demanded their self-determination rights and secured control over IHS and BIA programs.

The ISDA has by any measure been a success unprecedented in the history of America's relations with its Tribes. It has served not only to shift back to the Tribes the primary role of controlling and administering essential governmental services, but to reinvigorate those Tribal governments so that they would be in a position to engage in meaningful economic and resource development to better their communities.

But as a 1987 Senate committee noted—and as four successive amendments attest—it has not all been smooth sailing. Predictably, at first the agencies fiercely resisted relinquishing control and funding to the Tribes. Later, a larger issue rose up as the “single most serious problem with implementation of the Indian self-determination policy.” And that was both agencies' failure to pay their full “contract support costs” obligations.

“Contract support costs” are the necessary costs of operating a federal program under contract. After all, when the BIA and IHS operate these programs, the agencies have the benefit of their own massive bureaucracies to support the programs with personnel and financial management systems, legal resources, procurement systems and the like, both from within their two Departments and from other departments like the General Services Administration and the Office of Personnel Management. So, too, tribal contractors require similar resources to properly carry out the contracted programs. Moreover, Federal law demands more of the tribal contractors, such as annual independent audits, reporting requirements and workers' compensation and other insurance. For the most part these fixed contract support costs are set by government-issued indirect cost rates. The rates are based upon certified independent audits, and the costs are then reaudited once each contract year is over. (Indirect cost rates are a common feature of government contracting generally.)

These costs are the fixed costs which tribal contractors must incur, which the agencies under the law are required to reimburse in full—but which the agencies have historically failed to pay in

full. As a result, tribal contractors have been left with no choice but to cut program positions and services and thus divert program funds to pay the contract costs that the agencies' should have paid. Although Congress 23 years ago directed that the agencies "must cease the practice of requiring tribal contractors to take indirect costs from the direct program costs, which results in decreased amounts of funds for services," S. Rep. No. 100-274, at 9 (1987), today the practice continues.

For instance, from 2000 to 2008 (and with one exception for the BIA only), President Bush failed to request any funds to make for up the contract support cost shortfall—even after the Supreme Court in the 2005 Cherokee Nation case held that these contract amounts by law must be paid. President Obama has set a decidedly different course, and thanks to this Committee's leadership Congress recently enacted increases of \$116 million for IHS contract payments and \$18.6 million for BIA contract payments. Even still, this year IHS will fall short of its contract support cost obligations by an estimated \$105 million, and the BIA will fall short by \$64 million.

The President's Budget for FY 2011 once again proposes serious increases for both IHS and the BIA, increases which the Coalition certainly supports. But it must be pointed out (as the Budget Justification explains) that the \$45 million increase requested for IHS will only be sufficient to cover the increased contract support cost requirements associated with the program increases being proposed in the Budget. Not one penny will be available to pay down the **\$105 million** historic IHS shortfall. While the \$21.5 million increase for BIA contract payments will actually reduce a substantial portion of the BIA's historic shortfall, there, too, a significant shortfall of **\$46 million** will nonetheless remain.

Ideally, these shortfalls should at long last now be eliminated. But if that is not feasible in the current budget environment, then the Coalition requests that sufficient increases over the President's proposed Budget be made to close the gap in three years for the IHS (representing an additional **\$35 million** per year) and in two years for the BIA (and additional **\$23 million** per year).

The status quo is not acceptable for many reasons. First, in the absence of any increase, the combined projected contract support cost shortfall in FY 2011 will be nearly \$220 million for the two agencies. Since the Tribes have to cover that shortfall through continuing program reductions, the Tribes will have only \$2.6 billion to carry out their contracted \$2.82 billion programs for their communities. In contrast, paying the full shortfall would permit Tribes to restore over 4,000 jobs in these programs at a time of urgent national economic crisis.

Second, the *status quo* penalizes Tribes for their self-determination contracting activities, an inequity Congress should not permit to continue. Today, a \$1 million IHS-operated clinic has \$1 million to employ staff and serve the local community. But a \$1 million tribally-operated clinic on average has only \$800,000 to serve the same community. The same is true of the BIA. It is a cruel and unfair burden imposed on the very tribal communities that seek greater tribal self-determination.

Third, the continuing shortfalls have all but brought to a halt forward progress under the ISDA. For years, new contracting activities have slowed to a trickle, and each agency is stuck at no

more than 60% of its budget operated by Tribes. This is not a product of Tribes not wanting to contract more of those agencies' operations—witness the Standing Rock Sioux Tribe or the Shoshone-Paiute Tribes, each of which has expressed an interest in expanding their contracts to cover, respectively, an IHS clinic and a BIA roads program, but neither of which can afford to operate those contracts with no contract support costs. The Southern Ute Tribe is mired in litigation over the operation of its IHS clinic, again because of conflicts over contract support costs. Although three years ago the Cherokee Nation contracted to operate the IHS Tulsa Hastings Hospital, the Cherokee Nation is still not receiving any contract support for those operations, and its contract actually acknowledges that program funds are being diverted to make up for the difference.

Fourth, investing funds here is wise. No part of the IHS or BIA budgets is more highly scrutinized than funds awarded under these contracts. There is a transparency and accountability here that is unrivaled in other government contracting work.

Fifth, fully paying CSCs is legally required. In Cherokee Nation the Supreme Court admonished that these contracts are no less enforceable than other government contracts, and the government is ordinarily liable even if it has insufficient funds to pay all of the contracts it has made. Indeed, section 106(g) of the ISDA expressly commands that the Secretary “shall add the full amount” of contract support and program funds to every contract. It is not a matter of writing a better law; it is a matter of honoring the law that Congress has already written.

Finally, it is a stain on America when the Nation honors to the penny all other government contracts, even when honoring those contracts demands supplemental appropriations, but not contracts with Indian Tribes. As much as law, policy, fairness and good sense, the Nation's honor demands that these contracts be paid in full for services duly rendered to the United States.

In addition to these recommended funding levels, the Coalition recommends that the Committee require each agency to consistently project and budget for the budget year additional CSC requirements associated with new contracts and program expansions (on average, 13.5 cents for each new IHS dollar, and 10.4 cents for the BIA). The IHS did this in FYs 2010 and 2011, but the BIA did not. Also, both agencies must calculate the projected shortfalls using the best available estimates for the budget year. Because the BIA used 4 year old numbers, it incorrectly stated that the proposed budget will fund CSCs at 94% of need, when in fact it will fund only 80%. Finally, the Committee should reconcile the different language used in the IHS and BIA portions of the bill, eliminate old “section 314” (a useless provision after the Cherokee case), and assure each agency has an ISD Fund within the overall CSC appropriation. Proposed language is attached to this testimony.

Thank you again for the opportunity to offer these recommendations.

NATIONAL TRIBAL CONTRACT SUPPORT COST COALITION

SUGGESTED CHANGES TO IHS AND BIA BILL LANGUAGE REGARDING CONTRACT SUPPORT COSTS

IHS Language:

Provided further, That, notwithstanding any other provision of law, of the amounts provided herein,

not to exceed [\$398,490,000] \$444,332,000

shall be for payments to tribes and tribal organizations for contract or grant support costs associated with contracts, grants, self-governance compacts, or annual funding agreements

between the Indian Health Service and a tribe or tribal organization pursuant to the Indian Self-Determination Act of 1975, as amended, prior to or during fiscal year [2010] 2011,

of which not to exceed [\$5,000,000] \$10,000,000 may be used for contract support costs associated with new or expanded self-determination contracts, grants, self-governance compacts, or annual funding agreements

BIA Language:

and of which, notwithstanding any other provision of law, ~~including but not limited to the Indian Self-Determination Act of 1975, as amended;~~

not to exceed [\$166,000,000] ~~\$187,526,000~~
\$192,526,000

shall be ~~available~~ for payments for contract support costs associated with ongoing contracts, grants, compacts, compacts, or annual funding agreements entered into

between with the Bureau of Indian Affairs and a tribe or tribal organization pursuant to the Indian Self-Determination Act of 1975, as amended, prior to or during fiscal year [2010] 2011, as authorized by such Act

, of which not to exceed \$5,000,000 may be used for contract support costs associated with new or expanded self-determination contracts, grants, self-governance compacts, or annual funding agreements

ALASKA NATIVE TRIBAL HEALTH CONSORTIUM
ARCTIC SLOPE NATIVE ASSOCIATION, LTD.
CHEROKEE NATION

CHIPPEWA CREE TRIBE OF THE ROCKY BOY'S RESERVATION
CHOCTAW NATION

CONFEDERATED SALISH AND KOOTENAI TRIBES
COPPER RIVER NATIVE ASSOCIATION
FOREST COUNTY POTAWATOMI COMMUNITY

KODIAK AREA NATIVE ASSOCIATION
LITTLE RIVER BAND OF OTTAWA INDIANS
PUEBLO OF ZUNI

RIVERSIDE - SAN BERNARDINO COUNTY INDIAN HEALTH
SHOSHONE BANNOCK TRIBES
SHOSHONE-PAIUTE TRIBES
SPIRIT LAKE TRIBE
YUKON-KUSKOKWIM HEALTH CORPORATION
