



NPAIHB POLICY BRIEF

FY 2010 IHS Appropriations

PREPARED BY: NORTHWEST PORTLAND AREA INDIAN HEALTH BOARD

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FY 2010 IHS Budget Moves through House & Senate: House approves \$471 million, Senate recommends President's Request

The Indian Health Service (IHS) FY 2010 appropriation seems to be moving effortlessly through this session of Congress. This is a striking change than when appropriations bills moved through Congress under the previous Administration. While the Administration does not recommend and approve spending bills, it does weigh in about budget caps and can make veto threats if Congressional fiscal policies are not consistent with the Administration's budget. This has been the common theme the last two years as the Democratic controlled Congress has often established different funding priorities than President Bush. The new Obama Administration has ushered in a welcome change for Indian health programs.

On June 26th, the full House approved by a 254-173 roll call vote, \$471.3 million for IHS and Tribal health programs for FY 2010. In May, the Administration submitted to Congress a budget request that included a \$453.5 million increase over FY 2009 for the IHS and Tribes. The House approved amount provides a \$17.6 million more than the President's request. Tribes were very pleased with the President's increase of almost one-half billion dollars, and see it as a starting point to restore years of neglect and chronic underfunding of the IHS budget by the previous Administration.

Detail of Changes	President Request	House Approved	Senate Recomm.
Current Services			
Pay Costs	\$ 34,927	\$ 34,927	\$ 34,927
Population Growth	44,632	44,632	44,632
Inflation	60,307	60,307	60,307
Staffing New Facilities	26,865	26,865	26,865
<i>Total, Current Services</i>	<i>\$ 166,731</i>	<i>\$ 166,731</i>	<i>\$ 166,731</i>
Program Increases/Decreases			
Domestic Violence Init.	\$ -	\$ 2,500	\$ -
Dental Services		\$ 1,250	
Contract Health Services	117,000	117,000	117,000
Urban Health		5,000	
Direct Operations	2,000	2,000	2,000
Contract Support Costs	104,418	113,418	104,418
New Tribes	5,595	5,595	5,595
IHC Improvement Fund	45,543	45,543	45,543
Chronic Care Initiative	2,500	2,500	2,500
HP/DP Initiative	800	800	800
Health Professions	2,854	2,854	2,854
Hlth. Information Technology	16,251	16,251	16,251
Health Facilities Const.	-10,766	-10,766	-10,766
Facil. & Env. Hlth Suppt.	575	575	575
<i>Total, Program Inc/Dec.</i>	<i>\$ 286,770</i>	<i>\$ 304,520</i>	<i>\$ 286,770</i>
Total Increase	\$ 453,501	\$ 471,251	\$ 453,501

On June 25th, the Senate Interior Appropriations Committee recommended to match the President's request by approving a \$453.5 million increase. The full Senate has yet to act on the Committee's recommendation. The House recommended additional funding over President Obama's request for Hospital and Clinics (\$2.5 million), Dental Services (\$1.25 million), Urban Health (\$5 million), and Contract Support Costs (\$9 million). The Senate Appropriations Committee recommended the same funding levels as the Administration. The additional funding for the Hospital/Clinics line item will fund a domestic violence prevention initiative. This makes the House mark a 13.2% increase over FY 2009, while the Senate recommendation is 12.7% more than last year's enacted level.

Both the House and Senate bills provide \$166.7 million to fund current services consisting of: \$34.9 million for federal and Tribal pay cost increases, \$44.6 million to fund population growth, \$60.3 million for inflation (medical inflation at 3% and 1% for non-medical inflation), and \$26.9 million for phasing in

staff at new facilities. The Administration and Senate recommendations are the same for program increases, while the House bill provides slightly more funding.

The House bill provides an additional \$2.5 million (currently funded at \$7.5 million) for a total of \$10 million to continue the initiative to address domestic violence and sexual assault in Indian Country. Currently, the IHS Behavioral Health Tribal leaders committee is in the process of developing recommendations for how to allocate the FY 2009 funding. The House Committee report stresses that Congress continues to be concerned about the problem of domestic violence, and in particular, abuse against women and children. Congress acknowledges that fact that these issues cannot be addressed by IHS alone and expects IHS to work the Departments of Interior and Justice to provide needed services and support. The House also expects the IHS to implement a nationally coordinated Sexual Assault Forensic Examiner/Sexual Assault Response Team (SAFE/SART) Program to be used to fund IHS and Tribal hospitals through competitive grants. IHS is also directed to expand its national domestic violence grant program to address the growing need to increase Federal, Tribal and Urban Domestic Violence program services.

The House report questions the Department's policy on witness subpoenas in domestic violence assaults and is concerned that it hinders the IHS mission. Congress indicates that it has received reports that bureaucratic obstacles imposed by the Department prevent IHS personnel from presenting testimony in cases of rape or sexual assault. Congress is concerned that this policy has caused cases to be dropped and alleged perpetrators to walk free. The Committee finds this unacceptable and directs IHS and the Department to evaluate and revise this policy to ensure that IHS personnel are able to testify and present evidence in these cases and to report to the Committee on their efforts within 90 days of enactment.

Contract Health Services

The House and Senate bills both provide a sizeable increase of \$117 million for the Contract Health Service program, which also provides a \$17 million increase for the Catastrophic Health Emergency Fund (CHEF). Currently, the CHEF is funded at \$31 million, and will now increase to \$48 million. This increase in combined with the savings from Medicare-like rates should preserve the CHEF well into the fiscal year. Historically, the CHEF ran out of funds sometime between January to March, and with the implementation of Medicare-like rates has lasted into June and July the last two fiscal years. This increase will hopefully allow the CHEF to last into August or September.

Indian Health Care Improvement Fund

The House and Senate bills also increase the Indian Health Care Improvement Fund (IHCIF) by \$30.5 million, providing a total of \$45.5 million for the IHCIF. The increased funding will be provided to those operating units funded at less than 45% of their level of need. The IHS FY 2010 Congressional Justification included language that indicates the IHS will "conduct a thorough evaluation of the methodology and data sources utilized to distribute the IHCIF and will take action to improve and refine the formula if necessary." Unfortunately, Congress did not include this language in their appropriation reports. Northwest Tribes have always had concerns about the methodology to allocate the IHCIF and that it might not include all resources when establishing the federal disparity index of Tribes. Portland Area Tribes support a comprehensive evaluation of the IHCIF methodology and will request that when the appropriation bills go to conference that Congress direct the IHS to complete this evaluation.

Contract Support Costs

A notable change for the FY 2010 appropriation is the sizable increase for the Contract Support Cost (CSC) line item. This year's CSC increases signal an end to a sad chapter of neglect for Self-Determination. Contracting and compacting were seriously undermined from 2002 through 2008, by the failure to pass adequate funding increases to not only support existing contractors, but those who wanted to participate in Self-Determination and Self-Governance opportunities. The lack of CSC funding has halted the federal policy of Indian Self-Determination. New contractors found themselves unfairly set up to fail when the IHS was unable to provide the level of contract support that was justified by the amount of activity taken over by Tribes.

The House bill provides \$9 million more than the President's and Senate recommendations of \$107 million. The House bill provides \$116 million for CSC, and if the recommendation becomes final, will provide Portland Area Tribes with approximately \$10 million in new CSC funds. It is expected that the IHS will direct all of the increase to past year's CSC shortfalls. The pending bills include, consistent with past appropriations bills, limit the ability of the IHS and BIA to fund past-year shortfalls in contract support funding from remaining unobligated balances for those fiscal years.

SEC. 408. "Notwithstanding any other provision of law, amounts appropriated to or otherwise designated in committee reports for the Bureau of Indian Affairs and the Indian Health Service by Public Laws 103-138, 103-332, 104-134, 104-208, 105-83, 105-277, 106-113, 106-291, 107-63, 108-7, 108-108, 108-447, 109-54, 109-289, division B and Continuing Appropriations Resolution, 2007 (division B of Public Law 109-289, as amended by Public Law 110-5 and 110-28), Public Laws 110-92, 110-116, 110-137, 110-149, 110-161, 110-329, 111-6, and 111-8 for payments for contract support costs associated with self-determination or self-governance contracts, grants, compacts, or annual funding agreements with the Bureau of Indian Affairs or the Indian Health Service as funded by such Acts, are the total amounts available for fiscal years 1994 through 2009 for such purposes, except that for the Bureau of Indian Affairs federally recognized tribes and tribal organizations of federally recognized tribes may use their tribal priority allocations for unmet contract support costs of ongoing contracts, grants, self-governance compacts or annual funding agreements."

The NPAIHB's FY 2010 Budget Analysis and Recommendations report estimates that it will take at least \$469 million to maintain current services. This year's House approved budget is adequate to fund current services; however the Senate's will fall short by \$15 million. The House budget provides adequate funding however, the allocations should be adjusted to fund current services by increasing funding for Dental Services by \$1.6 million, Mental Health by \$1.5 million and Public Health Nursing by \$1.2 million. (See NPAIHB FY 2010 Budget Analysis and Recommendations, June 10, 2009)

Legislative and Administrative Provisions

Restriction of IHS Funds in Alaska to Regional Native Organizations: The Senate bill (not in House bill) would continue the requirement that IHS funds for Alaska be made available only to regional Alaska Native health organizations (with some exceptions). The difference will have to be resolved in conference. The Senate language reads:

416(a) Notwithstanding any other provision of law and until October 1, 2011, the Indian Health Service may not disburse funds for the provision of health care services pursuant to Public Law 93-638 (25 U.S.C. 450 et. seq.) to any Alaska Native village or Alaska Native village corporation that is located within the area served by an Alaska Native regional health entity. (b) Nothing in this section shall be construed to prohibit the disbursal of funds to any Alaska Native village or Alaska Native village corporation under any contract or compact entered into prior to May 1, 2006, or to prohibit the renewal of any such

agreement. (c) For the purpose of this section, Eastern Aleutian Tribes, Inc., the Council of Athabascan Tribal Governments, and the Native Village Eyak shall be treated as Alaska Native regional health entities to which funds may be disbursed under this section.

The Senate report, in describing the above provision, states: Sec. 416. Continues a long standing requirement in Alaska that IHS funds be made available only to regional Alaska Native health organizations and those Native entities with contracts or compacts with the Service entered into prior to May 1, 2006, in order to make the most cost effective use possible of scarce HIS funds for provision of health services.

Contract Support Costs Cap: The bills, consistent with previous appropriations acts, continue a statutory cap on IHS contract support costs – \$398,490,000 in the House bill and \$389,490,000 in the Senate Committee bill.

IDEA Data Collection Language: The bills continue language to authorize the BIA to collect data from the IHS and tribes regarding disabled children in order to assist with the implementation of the Individuals with Disabilities Education Act (IDEA). The bills read:

Provided further, That the Bureau of Indian Affairs may collect from the Indian Health Service and tribes and tribal organizations operating health facilities pursuant to Public Law 93-638 such individually identifiable health information relating to disabled children as may be necessary for the purpose of carrying out its functions under the Individuals with Disabilities Education Act, 20 U.S.C. 1400, et. seq. This provision is necessary to allow the BIA to collect information on disabled students so that it can provide services to them as required under the IDEA.

Prohibition on Implementing Eligibility Regulations. The prohibition on the implementation of the eligibility regulations published on September 16, 1987, is continued in both bills. *Services for non-Indians.* The provision that allows the IHS and tribal facilities to extend health care services to non-Indians, subject to charges, is continued in both bills. The provision states:

In accordance with the provisions of the Indian Health Care Improvement Act, non-Indian patients may be extended health care at all tribally administered or Indian Health Service facilities, subject to charges, and the proceeds along with funds recovered under the Federal Medical Care Recovery Act (42 U.S.C. 2651-2653) shall be credited to the account of the facility providing the service and shall be available without fiscal year limitation.

Assessments by DHHS. Despite the Administration's proposal to eliminate the provision that has been in the IHS bill for a number of years which provides that no HIS funds can be used for any assessments or charges by DHHS "unless identified in the budget justification and provided in this Act, or approved by the House and Senate Committees on Appropriations through the reprogramming process," both bills maintain this provision.

This year's FY 2010 budget is welcome news for Tribes. Indian Country will watch closely to see that President Obama honors his commitment to address the health disparities of Indian people by adequately funding the IHS and Tribal health programs. So far, he is off to a good start and the real proof will be in the second and third years of his Administration.

NPAIHB Policy Brief is a publication of the Northwest Portland Area Indian Health Board, 527 S.W. Hall, Suite 300, Portland, OR 97140. For more information visit www.npaihb.org or contact Jim Roberts, Policy Analyst, at (503) 228-4185 or by email jroberts@npaihb.org.

President's FY 2010 Request for the IHS Budget

Compares FY 2009 to President's FY 2010

(Dollars in Thousands)

Sub Sub Activity	Final Budget FY 2009	President's FY 2010 Budget			House Approved Budget - H. Rpt. 111-180					Senate Appropriations Recommendation				
		President's FY 2010 Budget	Change Over FY 2009	Percent Change	House Approved	Change Over Request	Percent Change	Change Over FY 2009	Percent Change	Committee Mark	Change Over Request	Percent Change	Change Over FY 2009	Percent Change
SERVICES:														
Hospitals & Health Clinics	\$ 1,597,777	\$ 1,751,883	\$ 154,106	9.6%	\$ 1,754,383	\$ 2,500	0.1%	\$ 156,606	9.8%	1,751,883	\$ -	0%	\$ 154,106	9.6%
Dental Services	\$ 141,936	\$ 151,384	\$ 9,448	6.7%	\$ 152,634	\$ 1,250	0.8%	\$ 10,698	7.5%	151,384	\$ -	0%	\$ 9,448	6.7%
Mental Health	\$ 67,748	\$ 72,786	\$ 5,038	7.4%	\$ 72,786	\$ -	0.0%	\$ 5,038	7.4%	72,786	\$ -	0%	\$ 5,038	7.4%
Alcohol & Substance Abuse	\$ 183,769	\$ 194,409	\$ 10,640	5.8%	\$ 194,409	\$ -	0.0%	\$ 10,640	5.8%	194,409	\$ -	0%	\$ 10,640	5.8%
Contract Health Services	\$ 634,477	\$ 779,347	\$ 144,870	22.8%	\$ 779,347	\$ -	0.0%	\$ 144,870	22.8%	779,347	\$ -	0%	\$ 144,870	22.8%
<i>Total, Clinical Services</i>	\$ 2,625,707	\$ 2,949,809	\$ 324,102	12.3%	\$ 2,953,559	\$ 3,750	0.1%	\$ 327,852	12.5%	\$ 2,949,809	\$ -	0%	\$ 324,102	12.3%
PREVENTIVE HEALTH:														
Public Health Nursing	\$ 59,885	\$ 64,071	\$ 4,186	7.0%	\$ 64,071	\$ -	0.0%	\$ 4,186	7.0%	64,071	\$ -	0%	\$ 4,186	7.0%
Health Education	\$ 15,723	\$ 16,682	\$ 959	6.1%	\$ 16,682	\$ -	0.0%	\$ 959	6.1%	16,682	\$ -	0%	\$ 959	6.1%
Comm. Health Reps	\$ 57,796	\$ 61,628	\$ 3,832	6.6%	\$ 61,628	\$ -	0.0%	\$ 3,832	6.6%	61,628	\$ -	0%	\$ 3,832	6.6%
Immunization AK	\$ 1,823	\$ 1,934	\$ 111	6.1%	\$ 1,934	\$ -	0.0%	\$ 111	6.1%	1,934	\$ -	0%	\$ 111	6.1%
<i>Total, Preventive Health</i>	\$ 135,227	\$ 144,315	\$ 9,088	6.7%	\$ 144,315	\$ -	0.0%	\$ 9,088	6.7%	\$ 144,315	\$ -	0%	\$ 9,088	6.7%
OTHER SERVICES:														
Urban Health	\$ 36,189	\$ 38,139	\$ 1,950	5.4%	\$ 43,139	\$ 5,000	13.1%	\$ 6,950	19.2%	38,139	\$ -	0%	\$ 1,950	5.4%
Indian Health Professions	37,500	\$ 40,743	\$ 3,243	8.6%	\$ 40,743	\$ -	0.0%	\$ 3,243	8.6%	40,743	\$ -	0%	\$ 3,243	8.6%
Tribal Management	2,586	\$ 2,586	\$ -	0.0%	\$ 2,586	\$ -	0.0%	\$ -	0.0%	2,586	\$ -	0%	\$ -	0.0%
Direct Operation	65,345	\$ 68,720	\$ 3,375	5.2%	\$ 68,720	\$ -	0.0%	\$ 3,375	5.2%	68,720	\$ -	0%	\$ 3,375	5.2%
Self Governance	6,004	\$ 6,066	\$ 62	1.0%	\$ 6,066	\$ -	0.0%	\$ 62	1.0%	6,066	\$ -	0%	\$ 62	1.0%
Contract Support Costs	282,398	\$ 389,490	\$ 107,092	37.9%	\$ 398,490	\$ 9,000	2.3%	\$ 116,092	41.1%	389,490	\$ -	0%	\$ 107,092	37.9%
<i>Total, Other Services</i>	\$ 430,022	\$ 545,744	\$ 115,722	26.9%	\$ 559,744	\$ 14,000	2.6%	\$ 129,722	30.2%	\$ 545,744	\$ -	0%	\$ 115,722	26.9%
TOTAL, SERVICES	\$ 3,190,956	\$ 3,639,868	\$ 448,912	14.1%	\$ 3,657,618	\$ 17,750	0.5%	\$ 466,662	14.6%	\$ 3,639,868	\$ -	0%	\$ 448,912	14.1%
FACILITIES:														
Maintenance & Improvement	\$ 53,915	\$ 53,915	\$ -	0.0%	\$ 53,915	\$ -	0.0%	\$ -	0.0%	53,915	\$ -	0%	\$ -	0.0%
Sanitation Facilities Construction	95,857	\$ 95,857	\$ -	0.0%	\$ 95,857	\$ -	0.0%	\$ -	0.0%	95,857	\$ -	0%	\$ -	0.0%
Hlth Care Facilities Construction	40,000	\$ 29,234	\$ (10,766)	-26.9%	\$ 29,234	\$ -	0.0%	\$ (10,766)	-26.9%	29,234	\$ -	0%	\$ (10,766)	-26.9%
Facil. & Envir. Hlth Supp	178,329	\$ 193,087	\$ 14,758	8.3%	\$ 193,087	\$ -	0.0%	\$ 14,758	8.3%	193,087	\$ -	0%	\$ 14,758	8.3%
Equipment	22,067	\$ 22,664	\$ 597	2.7%	\$ 22,664	\$ -	0.0%	\$ 597	2.7%	22,664	\$ -	0%	\$ 597	2.7%
<i>Total, Facilities</i>	\$ 390,168	\$ 394,757	\$ 4,589	1.2%	\$ 394,757	\$ -	0.0%	\$ 4,589	1.2%	\$ 394,757	\$ -	0%	\$ 4,589	1.2%
TOTAL, IHS	\$ 3,581,124	\$ 4,034,625	\$ 453,501	12.7%	\$ 4,052,375	\$ 17,750	0.4%	\$ 471,251	13.2%	\$ 4,034,625	\$ -	0%	\$ 453,501	12.7%