

BUREAU OF INDIAN AFFAIRS REORGANIZATION— PART II

OVERSIGHT HEARING BEFORE THE SUBCOMMITTEE ON NATIVE AMERICAN AFFAIRS OF THE COMMITTEE ON NATURAL RESOURCES HOUSE OF REPRESENTATIVES ONE HUNDRED THIRD CONGRESS FIRST SESSION ON

THE 1992 REPORT OF THE JOINT TRIBAL/BIA/DOI ADVISORY TASK
FORCE ON THE BUREAU OF INDIAN AFFAIRS REORGANIZATION
TO THE SECRETARY OF THE INTERIOR AND APPROPRIATIONS
COMMITTEES

HEARING HELD IN FORT WASHAKIE, WYOMING
APRIL 5, 1993

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THE 1992 REPORT OF THE JOINT TRIBAL/BIA/ DOI TASK FORCE ON THE BUREAU OF IN- DIAN AFFAIRS REORGANIZATION

MONDAY, APRIL 5, 1993

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON NATIVE AMERICAN AFFAIRS,
COMMITTEE ON NATURAL RESOURCES,
Fort Washakie, WY.

The committee met, pursuant to notice, at 9:10 a.m., in the Joint Business Council Center, Fort Washakie, Wyoming, the Honorable Bill Richardson, Chairman, presiding.

Present: Representatives Richardson and Thomas.

OPENING STATEMENT OF CHAIRMAN RICHARDSON

Mr. RICHARDSON. The Subcommittee on Native American Affairs will come to order. We are pleased to convene this field hearing in the State of Wyoming. We are honored to be in the Wind River Reservation. I want to thank all of you for providing this forum. I especially thank you representative, Craig Thomas, who is the ranking minority member of the Subcommittee.

In the fall of 1990, the BIA proposed its own reorganization plan. At that time, tribal leaders rejected the plan because the BIA had not consulted with them in its formulation.

In the Appropriations Act of 1991, a Task Force to reorganize the BIA was established, wherein representatives from their Interior Department, and three representatives of each of the 12 BIA area offices' Tribes would be represented. The report before the Subcommittee today is a culmination of a two-year effort and was released in December of 1992.

I believe that this reorganization plan was a good-faith effort on the part of the Bush Administration to attempt to improve an archaic bureaucracy. Whether the plan has merit or not is something we must determine in this hearing and future hearings.

Today we are privileged to have before the Subcommittee the Tribal Governments of the State of Wyoming, the Arapaho and the Shoshone Tribes.

At this time, I would like to remind all witnesses that their full written statements will be made part of the record. We will be keeping the record open for two weeks. Right now I would like to submit the background and executive summary of the reorganization plan for the record.

[The information follows:]

BACKGROUND

On June 30, 1834, Congress enacted (1) a series of Acts "to regulate trade and intercourse" with the Indian tribes, and (2) an Act providing for the organization of a Department of Indian Affairs within the Department of War. The House Committee on Indian Affairs, during consideration of these bills, made a prophetic statement foreshadowing the federal relationship with Indian tribes:

"The Indians, for whose protection these laws are proposed, consist of numerous tribes, scattered over an immense extent of country, of different languages, and partaking of all the forms of society in the progression from the savage to an approximation to the civilized. With the emigrant tribes we have treaties, imposing duties of a mixed character, recognizing them in some sort as dependent tribes, and yet obligating ourselves to protect them, even against domestic strife, and necessarily retaining the power so to do. With other tribes we have general treaties of amity; and with a considerable number we have no treaties whatever." F. Cohen, Handbook of Federal Indian Law (1982 ed.) p. 115

Indeed, the problem of uniformly serving 500 tribal entities continues to serve as a baffling administrative problem. In 1834, the House Committee reviewed the administrative problems of corruption and lack of structure within the Department. The Committee report stated:

"The present organization of this department is of doubtful origin and authority. Its administration is expensive, inefficient, and irresponsible." Cohen, 117.

The Act of March 3, 1849, established "a new executive department of the government of the United States to be called the Department of the Interior." Section 5 declared:

"The Secretary of the Interior shall exercise the supervisory and appellate powers now exercised by the Secretary of the War Department in relation to all the acts of the Commissioner of Indian affairs..." Cohen, 119.

In general, the Commissioner of Indian Affairs became the central administrator for virtually all aspects of relations with Indian tribes.

For the past 144 years, the Bureau of Indian Affairs has been the main instrument for carrying out the federal trust responsibility toward Indian tribes. The existing structure of the BIA is as follows: (1) the Assistant Secretary's Office, (2) a Central Office in Washington, D.C., (3) 12 Area Offices and 26

education Field Line offices, (4) 84 local agency offices and 99 BIA schools.

In order to address the continuing complaints regarding mismanagement and inefficiency, the BIA, in 1990, unilaterally attempted to reorganize. Tribal leaders immediately rejected the BIA "Blue Book" reorganization plan and requested the assistance of Congress to forestall any efforts to implement the reorganization until a proper consultation process was initiated. In the 1991 Appropriations Act, Congress mandated that a Task Force of Tribal Leaders and the BIA join forces to formulate a reorganization plan.

In December of 1992, the Task Force published a reorganization plan. The proposed features the following:

- The Indian Gaming Management Staff is established as a new organization within the Bureau.
- Area Offices have been renamed and guidelines have been established for converting these offices to Regional Technical Service Offices or Regional Line Offices at the option of the Tribes served. In either situation, the Regional Offices also become an integral part of the overall Office of the Commissioner of Indian Affairs rather than separate levels of bureaucracy within the organization.
- The Task Force recommends that a National Indian Advisory Board be created and that its functions and authorities be determined by legislation.
- The Office of Special Legal Counsel - Indian Affairs would be established apart from the Interior Solicitor and would report directly to the Assistant Secretary. This would be a full service legal office, including litigation services, which would be at the disposal of the Assistant Secretary. It would have field offices at the Commissioner level in various locations depending on need.
- The Division of Education Programs would be abolished and the functions and positions moved to policy and planning; the Division of Policy and Planning would be reduced to 15 and the Branch of Evaluation would be abolished. The Division of Education Programs would provide technical support on issues and policy development, budget formulation and presentation.
- An implementation plan was approved to establish six Regional Credit and Financing Offices. These will be formed by having the existing credit and finance resources assigned to the twelve Area Offices.

- The Task Force developed preliminary recommendations that involved moving control of the vast majority of BIA programs to the local level. This would provide Tribal input throughout the budget formulation process and ensure that Tribes were able to exercise maximum local control and decision making over the funds made available to them.

The Subcommittee will hold a series of hearings on these proposed changes in the BIA. Subsequent hearings will emphasize the reaction of tribal governments to the proposals of the Task Force.



EXECUTIVE SUMMARY



HISTORY

On December 20, 1990, the Joint Tribal/BIA/DOI Advisory Task Force on Bureau of Indian Affairs Reorganization was established by a Charter signed by the Secretary of the Interior. The Secretary appointed 36 Tribal and 7 Federal Representatives to serve as the 43 members of the Task Force. The Task Force represents a non-partisan response to the Tribes across the Nation. Tribal leaders requested that a previous Departmental reorganization plan be halted because Indian Tribes had not participated in its development. Both the Congress and the Secretary of the Interior worked with Tribal leaders and Indian organizations to ensure that the mandate of the Task Force and its membership reflected the desires of Indian Country. Principally, the Tribes wanted a participatory process that would involve Indian people in planning for the restructuring of the BIA.

From its first meeting in January 1991, the Task Force has concentrated on structural and management system reforms within the Bureau of Indian Affairs. Recognizing that any structural and management modifications must be accompanied by changes in operational philosophy, employee attitudes, and internal processes, the Task Force expanded its review and analysis activities to include these latter reforms which are necessary for the implementation of organizational recommendations.

This review and analysis resulted in multiple recommendations to address employee attitudes and performance and regulatory guidelines. (A full discussion of these recommendations are found in Chapter 3 and Chapter 5.) The analysis also resulted in the Task Force drafting a new mission statement for the Bureau of Indian Affairs which was adopted by the Task Force after Tribal review.

MISSION STATEMENT

The new Mission Statement emphasizes the role of the BIA in advocating for, and protecting the rights of, Tribes and Alaska Native Tribes. This BIA Mission Statement maintains and enhances Tribal powers of Self-Governance and assists Tribes in defining their government-to-government relationship with the United States, other Tribal Governments, Alaska Native Tribes, and the various states. The BIA Mission Statement also recognizes the continuing responsibility of the Bureau to protect and enhance Tribal resources so that the Tribes receive the full benefits from such resources. Further, the Mission Statement charges the Bureau with securing the resources necessary to carry out Bureau responsibilities with full participation and consultation of Tribes. The new BIA MISSION STATEMENT is:

The Bureau of Indian Affairs is created to uphold, protect and advocate inherent sovereign rights and rights of the American Indian Nations and Alaska Native Tribes afforded by the United States Constitution, Treaties, United States Statutes, Treaty Cessions, State Constitutional Disclaimer Provisions, Agreements, International Indigenous Peoples Rights and Executive Orders; to carry out the Trust responsibility for protection and enhancement of both human and natural resources of American Indians, Indian Tribes and Alaska Native Tribes; to enhance and maintain the integrity of Tribes, to advocate for and carry out the policies of Self-Determination, Self-Governance and the Government-to-Government relationship; and to identify and justify, with full participation of and consultation with Indian Tribal Governments and Alaska Native Tribes, the resources needed to carry out these responsibilities to the American Indians, Indian Tribes and Alaska Native Tribes.

REORGANIZATION

Throughout 1991, the Task Force looked at the current organizational structure, staffing, resources and authorities of the Central Office of the Bureau (Chapter 1). This review resulted in a plan which will make a more efficient and responsive Central Office allowing enhanced responsibility to be carried out at the field level. The Task Force's plan calls for the Assistant Secretary - Indian Affairs (AS-IA) to be more of a policy maker and advocate for the Tribes and the Commissioner of Indian Affairs (currently, Deputy Commissioner) to assume management control over the daily activities of the Bureau. As a result, the AS-IA has taken action to strengthen the Deputy Commissioner's authority over the day-to-day operations of the BIA.

The Task Force communicated the guiding principles for any reorganization of the Bureau, its conceptual organizational structure, and preliminary recommendations to the Secretary and the Congress in an April 1991 Status Report of Activities. The Status Report was also mailed to all Tribal leaders and was used as an instrument for further consultation on Task Force ideas. In February 1992, the Task Force reported to the Secretary and the Congress on all its activities during the previous year. The 1991 Cumulative Report was a more comprehensive description of the recommendations adopted by the Task Force and included proposed action plans for implementing these recommendations. The Cumulative Report was also distributed to all Tribes for their review, and Tribal comments on the report were discussed in subsequent Task Force meetings. The recommendations contained in this 1992 Report, therefore, reflect both the initial feedback from the Tribes that formed the foundation for the Task Force recommendations and the Tribal concerns about the way those recommendations were constructed.

Several of the recommendations of the Task Force have already been approved for implementation. Among these are the new offices for the Office of the Assistant Secretary (Office of Audit and Evaluation and Office of American Indian Trust) and in the BIA a new Office of Economic Development. Others submitted to the Secretary for approval are the Indian Gaming Management staff (Chapter 1, p. 1-19) and a restructuring of the Office of Trust Funds Management (Chapter 1, p. 1-23).

EDUCATION

The Task Force has recommended that P.L. 95-561 (the Indian Education Act amendments of 1978), as it relates to BIA Education, be fully implemented (Chapter 1, p. 1-14). Because the law, among other things, provides that Education may receive its own administrative support and facilities management services separate from the rest of the BIA, the Task Force has recommended that the Tribes in each Area be allowed to determine whether these functions should be transferred to the Office of Indian Education Programs (OIEP) organizations in that Area. Based on the Navajo Nation's request and the concurrence of the Task Force, the Bureau has moved facilities management responsibilities in the Navajo Area to the OIEP organization, and the Task Force has recommended the transfer of all administrative support services to the Navajo Area OIEP.

ECONOMIC DEVELOPMENT

Due to the Tribal Governments' and the Task Force's strong emphasis on Economic Development (Chapter 1, p. 1-21), the BIA Central Office has started to address: (1) improved collection of outstanding loans; (2)

professionalism with business and credit organizations; and (3) restoration of credibility to the BIA Economic Development effort. The Appropriations Committees approved the request to create an Office of Economic Development and the Office was established on October 18, 1992. The Task Force approved an implementation plan to regionalize the Credit and Financing Offices into six locations around the country. That reorganization proposal has to be submitted to the Appropriations Committees for approval.

Economic Development will continue to be one of the Task Force's top priorities since this is a national priority of the Tribes as indicated by the TBS planning process for the 1994 budget.

TRUST FUNDS MANAGEMENT

The management of Indian trust funds by the BIA is a major concern of the Task Force and the Tribal people the Task Force represents. The Intertribal Monitoring Association on Trust Funds Management (ITMA) and the Task Force have succeeded in bringing together an alliance of all major parties involved in Trust Funds Management. The parties include the Tribes; the Bureau of Indian Affairs including the Office of Trust Funds Management; the Department of Interior's Office of Policy, Management and Budget; and the Office of Management and Budget (OMB). The Interior Department's Bureau of Land Management and Minerals Management Service as well as the Treasury Department will have to be included in this alliance.

The Task Force recommended both a restructuring of the Office of Trust Funds Management and the development of short-term and strategic plans to resolve identified problems. Approval of these plans was conditional upon the plans being developed with the participation of the ITMA. The Task Force plans to continue to coordinate with the ITMA in all Task Force activities related to Trust Funds Management issues. The OTFM reorganization was approved by the Appropriations Committees and is pending Departmental implementation.

INDIAN GAMING

Indian Country Gaming is, and will play, a major role in the economies of Tribes for years to come. The Indian Gaming Regulatory Act, 25 USC § 2701, established a National Indian Gaming Commission to oversee the more serious forms of gambling. Since this Commission has not yet become fully operational, the Indian Gaming Regulatory Act requires the Bureau of Indian Affairs to provide interim oversight for the regulation of gaming. The Task Force accepted the recommendation of the Assistant Secretary to establish an Indian Gaming Management Staff (Chapter 1, p. 1-19) within the BIA to be responsible for Indian Gaming activities. The Task Force will continue to monitor the

development of the Bureau's Indian Gaming Act oversight capabilities and will continue to work with the gaming Tribes to ensure fairness and reasonableness in the development of the BIA's rules and regulations for Indian Gaming Act responsibilities.

CENTRAL OFFICE WEST

The Bureau not only maintains its Central Office in Washington, D.C., but also operates Central Office West (COW) (Chapter 1, p. 1-22) in Albuquerque, New Mexico, and other Western U.S. locations. A review of the organizations located in Albuquerque resulted in a recommendation to structure all the COW units under an Associate Commissioner. Additional recommendations were made to improve the internal operation of these entities, to review their activities and to determine which could be transferred to the Agency level, and to look at improved coordination, communication, and cooperation between COW and the Agencies.

AREA/AGENCY RESTRUCTURING PLANS

In September 1991, the Task Force developed two Ideal Agency structures (Chapter 2, p. 2-2) which the Tribes could use to plan for their own reorganized Agencies to accommodate each Tribe's unique needs. The majority of Tribes have now developed preliminary plans which are being refined for submission to the Task Force. The Task Force also developed an Area/Agency implementation process tracking system (Chapter 2, p. 2-13) for the plans. This process permits the tracking of Tribal, Task Force, BIA, and other organizations' action on each plan and provides the Tribes with an avenue by which to ensure continued Task Force support to get their plans implemented.

The Task Force has given the Albuquerque and Sacramento Areas (Chapter 2, p. 2-9) the green light to get their plans moving through the implementation process. When other Areas are ready, the Task Force will recommend implementation of their plans also. Of particular note is that this is a Tribally driven implementation process. The Tribes provide the necessary impetus to see that their plans are developed, funded, and implemented. The Task Force does not have, nor does it want, any control over what constitutes the best Agency or Area plan for any particular Tribe(s). If the plan is satisfactory to the Tribe(s) which designed it, the Task Force will support the Tribe(s) in seeing that the plan is approved and implemented to the degree that is possible and reasonable.

TRIBAL BUDGET SYSTEM

A new Tribal Budget System (TBS) (Chapter 4), which was designed and recommended by the Task Force, has now been developed through a joint effort of the Task Force, the BIA, and the Tribes. The majority of Tribes support the new TBS budget concept, and the Appropriations Committees of the Congress have adopted the budget format as proposed in the TBS. The new budget process and system will take several years to fully implement, but many features were incorporated into the formulation of the FY 1993 and FY 1994 budgets. A separate status report on implementation of the TBS will be issued in early 1993.

Under the proposed system, Tribes were able to identify individual Tribal needs and prioritize Bureau programs. As a result, a program listing was developed which provided the Bureau with the top Tribal program priorities for FY 1994. A similar process will be used in future years. The Task Force is also working to develop a "Standard Assessment Methodology" (Chapter 4 p. 4-5) which can be used to determine funding needs of each Tribe. A needs based budgeting system will permit more informed decisions by the Tribes, the BIA, the OMB, and the Appropriations Committees.

BIAM/CFR/USC

The Task Force formed a work group to specifically deal with changes (Chapter 5) to the Bureau of Indian Affairs Manual (BIAM), the Code of Federal Regulations (CFR), and certain sections of the United States Code (USC) which are necessary to implement the recommendations for reorganization. The Task Force recognizes that true reform of the manner in which the BIA conducts its day-to-day business must be accompanied with changes in the governing documents by which the Bureau operates.

TRACKING SYSTEM

The Task Force developed a "Tracking System" (Chapter 1, pp. 1-12, 1-16, and 1-26) designed to assist Task Force members and concerned parties in monitoring changes that will need to be made to the BIA pursuant to the reorganizational effort. This tracking system will be continuously updated to provide the Task Force and the Tribes with the latest developments.

MANAGEMENT INITIATIVE REVIEW

The Assistant Secretary - Indian Affairs and the Deputy Commissioner have taken management improvement initiative and administrative change actions to implement reorganizations. The Task Force has requested that the

Bureau bring all such internal BIA management improvement initiatives and administrative changes before the Task Force for review. This does two things: (1) it allows the Task Force to determine whether a reorganization or an internal management initiative is occurring; and (2) it keeps the Task Force informed of all actions the Bureau is initiating. The Task Force believes this process is necessary to strengthen the trust between the Tribes and the BIA upon which the participative consultation process was built and to facilitate participation by the Tribes as a full partner in all improvements that will take place.

Also, the Task Force, along with BIA employees and Union representatives, have embarked on an effort to identify issues and problems related to the management of personnel within the BIA. This will involve identifying issues and developing strategies pertaining to recruitment, retention, training, discipline, and discharge of employees within the Bureau system. This also ties in with the present "Total Quality Management" (TQM) initiative within the Bureau which focuses on improved service delivery to the Tribes and Indian individuals.

Mr. RICHARDSON. I would like to recognize my good friend and colleague, the gentleman from Wyoming, Mr. Thomas, who has been the Ranking Minority Member of this Subcommittee since it was created some three months ago. Many here in the audience might not know that there had been no subcommittee on Native American Affairs in the House of Representatives. There was the Select Committee on Indian Affairs in the Senate; but because of the very strong interest of many members from Western states, Mr. Thomas and myself, a Subcommittee to deal with Native American issues was revived after a 12-year hiatus.

Chairman Thomas has been extremely active in the issue of BIA reorganization. I know he cares deeply, as I do, about how we can make the BIA more efficient and more effective, and what we can do about economic development on the reservation. We have been holding some hearings on that issue.

I believe our Subcommittee has been one of the most active on the Natural Resources Committee with close to some 5 hearings in the last 90 days. The Subcommittee will be traveling to Indian Reservations in Montana and Arizona. We were in Connecticut two days ago, with the Pequot Tribe. Our objective is to go out to Indian country and hear from Indian country. One of the architects of this new policy is my good friend and colleague, the Ranking Minority Member, and the host for this hearing, Craig Thomas.

The Chair recognizes the gentleman.

STATEMENT OF HON. CRAIG THOMAS

Mr. THOMAS. Thank you, Mr. Chairman.

First, let me thank you, the Chairman, and both Councils and others for making it possible for us to come here, and for your hospitality to be here. I hope that we can talk specifically about some of the things that concern you in the BIA organization or other matters that you may be interested in.

Let me, too, thank the Chairman for coming. This is not an easy task for him. He is giving up his opportunity to be in New Mexico with his constituents. Indeed, he had a chance I know to go to Russia with the leadership of the House. So, we appreciate you doing this. We appreciate also your interest in Native Americans—in the work that you do, not only for your constituents, but the time you spend for others. So, thank you very much for that.

Let me just make a brief comment. First of all, I would like to recognize my wife, Susan, who is here with me; Bobbi Brown, who is our State Director, who will be working very directly with you; and also, Pam, who works with Senator Wallop's office, and who of course lives in Lander.

I am pleased to be on the Committee and have a chance to deal with some of the things that are important to Native Americans, and relate to Native Americans in Wyoming. The Chairman has described the plans that have been made. John Washakie has been a member of that Task Force, as you know, and a very active one.

I think all of us know that our Government and our country have some very serious budgetary problems, and the Government cannot continue to spend money it doesn't have; nor can it continue to fund every project that comes along. So, I think it is even more important than ever that we ensure that the dollars that are spent

are as effective as they can be—that the dollars that are spent by the agencies find their way to the people here on this Reservation and that they are as effective as possible in the areas of health care and education and whatever.

It seems to me that one area that will produce significant results is the decentralization of the role of BIA, in its Washington Office, in turning more programs over to the 12 area offices and to the Tribes themselves. More emphasis should be placed on tribal self-determination, which will allow each tribe to decide the services that they need, and how it can best be provided. No two Tribes in Indian Country are alike. What works in one reservation may not work in another. Allowing each Tribe to choose for itself what programs it needs and how to tailor those programs to their own situations, as efficiently as can be, will greatly increase efficiency and reduce unnecessary cost.

It is my hope that, with the Task Force recommendations and the information we learn here today and the other meetings the Chairman will have, we can ensure that Federal dollars are maximized at the tribal level, that the control of many of the day-to-day issues on the Reservations can be returned to the Tribes, and that BIA's performance and accountability can be improved to benefit all of those concerned.

So, again, thank you, Mr. Chairman. I look forward to the witnesses.

[Prepared statement of Mr. Thomas follows:]

**OPENING STATEMENT
OF
CONGRESSMAN CRAIG THOMAS**

WIND RIVER RESERVATION -- APRIL 5, 1993

Reorganizing the BIA has long been a topic of great interest both in Washington and in Indian Country. As the Bureau has grown over the years, some have noted that like many bureaucracies it has become less efficient and less responsive to the needs of its constituents.

In 1990, the Bureau prepared its own reorganization plan but failed to include input from those most effected by its decision and operations -- the tribes. Congress intervened in the process and directed the formation of a BIA reorganization task force comprised of tribal, BIA, and Department of Interior representatives.

The Task Force has worked diligently at its assignment for the last two years. The Task Force issued its most recent report at the end of 1992, which was the subject of the first hearing that the subcommittee held in Washington this year. At that time we heard from members of the Task Force about their work, and about the course they hoped the BIA would follow in coming years.

As everyone in this room knows, our country presently faces some serious budgetary problems. The government cannot continue to spend money it doesn't have, nor can it continue to fund every project that comes along. As a result, we have to see to it that every dollar appropriated to agencies like the BIA is used in the most cost-effective and productive manner possible to ensure that each achieves maximum impact. The money needs to reach those that

need it most -- the aged, the sick, the uneducated -- and not be wasted on the administration of the bureaucracy.

It seems to me that one area that will produce significant results is decentralizing the role of the BIA Washington office and turning programs over to the 12 agencies and the tribes themselves. More emphasis should be placed on tribal self-determination, which would allow each tribe to decide which services they need and how they can best be provided. No two tribes in Indian country are alike, and what works on one reservation may not work on another. By allowing each tribe to chose for itself what programs it needs and how to tailor those programs to their own situations, efficiency can be greatly increased and unnecessary costs decreased.

It is my hope that with the task force recommendations and the information we learn here today, we can ensure that federal dollars are maximized at the tribal level, that control of many of the day to day issues on the reservations can be returned to the tribes, and that the BIA's performance and accountability can be improved to benefit all concerned.

PANEL CONSISTING OF HON. DARWIN ST. CLAIR, SR., CHAIRMAN, SHOSHONE BUSINESS COUNCIL, SHOSHONE TRIBE, ACCOMPANIED BY JOHN SCHUMACHER, ATTORNEY FOR THE SHOSHONE TRIBE; HON. HARVEY SPOONHUNTER, CHAIRMAN, NORTHERN ARAPAHO BUSINESS COUNCIL, NORTHERN ARAPAHO TRIBE; HON. VIRGINIA SUTTON, CO-CHAIRMAN, NORTHERN ARAPAHO BUSINESS COUNCIL, NORTHERN ARAPAHO TRIBE; HON. RICHARD BURNETT, CO-CHAIRMAN, SHOSHONE BUSINESS COUNCIL, SHOSHONE TRIBE; HON. JOHN R. WASHAKIE, FORMER SHOSHONE CHAIRMAN AND MEMBER, JOINT TASK FORCE ON BIA REORGANIZATION; AND DAVID ALLISON, SUPERINTENDENT, WIND RIVER AGENCY, BUREAU OF INDIAN AFFAIRS

Mr. RICHARDSON. I thank my colleague.

The Subcommittee will now initiate its proceedings. We will hear from the Honorable Darwin St. Clair, Chairman of the Shoshone Tribe, Fort Washakie, Wyoming. Mr. Chairman, thank you for being such a gracious host.

STATEMENT OF HON. DARWIN ST. CLAIR, SR.

Mr. ST. CLAIR. My name is Darwin St. Clair, the Chairman of the Shoshone Business Council. On behalf of the Shoshone Tribe, I would like to welcome our own Congressman, Representative Craig Thomas, and the Congressman for New Mexico, Representative Bill Richardson, to our Reservation.

My testimony will focus on the need to get more authority and funding to our agency. Our oral statement will be brief. I request that the Subcommittee include my full written comments in the record.

Mr. RICHARDSON. Without objection.

Mr. ST. CLAIR. One of the goals of the reorganization effort must be to assure the various amounts of funds are used for direct services and benefits, and not for administrative costs. In addition, the services must meet the needs of the people. Placing more authority at our agency will increase direct services and benefits to our community. For example, the Joint Tribes proposed an agency structure—which is provided for the record—to shift authority, to approve grants and contracts to our agencies. If implemented, the approving officer would be familiar with our unique capabilities and review the agreement with our circumstances in mind. This would keep administrative costs low, because the inclusion of standard form requirements which do not apply to our situation could be removed.

Another example is the Tribe's request to shift authority and staff to conduct appraisals to our agency. Proposed land exchanges with tribal members, land leases, and rights of way, start of payments are unreasonably delayed by the inability to complete appraisals in a timely fashion. The accuracy of appraisals would improve because an appraiser would develop specific knowledge about our lands. Improved services would directly contribute to the financial strength of our Tribes and our members.

Accordingly, the Indian Self-Determination Act provides that the Tribes can contract to provide Federal services. Contracting of services now provided by our area office is difficult because we cannot

contract the program if it will limit services to the Tribes in the area.

Moving authorities to our agency will solve this problem if we do not contract with programs to shift the functions to increase the availability of professional, skilled, and clerical jobs here on the reservations where we need them most—our tribal employment rate is approximately 60 percent. In addition, many of our college-educated members would like to return to the reservation where there are some significant professional and skilled positions.

Another key function that should be transferred to the local agency is title, record and processing. The cost-effective use of our natural resources demand that we have accurate and timely access to title information. Economic development would be enhanced because such information will be readily available to businesses and to lending institutions. The lack of title plans has contributed to a bad Court decision about our sovereignty and efforts that attempt to limit our jurisdiction.

We have increased and improved our governmental capabilities over the years. There is no need to have a massive bureaucracy to implement the trust responsibility. The trust relationship must move to a relationship of mutual respect, based on Government-and-Government dealings. Shifting authority and funding to our agency will facilitate this relationship. For example, we have considerable expertise in the oil and gas area. However, after approval by the Tribe, several levels of BIA must review the agreement. Many of the persons reviewing our agreements have little expertise in oil and gas. This means Federal dollars are spent on reviews by unqualified staff, and tribal dollars are spent educating BIA personnel.

In our recent transactions with independent producer, Cohen Brown, most of the problems were resolved by explaining the agreement with BIA. This review took 6 months, which delayed the start of payments to the Tribes.

The Subcommittee must remember that adequate funding must go with the shift of authorities to our agency. Such funding will be extremely cost-effective, because economic activities will forward the funds that will be offset by enhanced job opportunities and improved living conditions for the tribal members.

One example of the need for funding at the local level is for solid waste. EPA has mandated the local communities to have solid waste plans to be in place by the spring. The BIA, in order to limit its ability, has chosen the BIA-operated facilities on the reservation. The Tribes have approved the solid waste transfer station plan. As we discussed with you in Washington, without funds to implement the plan, new environmental problems are being created. Your support is requested for funding to reservations for environmental problems.

The Tribes support having policy issues under the Assistant Secretary of daily operations under the Commissioner. The Tribes urge the Commissioner's office be located in Albuquerque. The office should be located conveniently to the majority of the Tribes. With modern communications, there should be no problem coordinating with the Assistant Secretary's staff on the issues that involve the policies and daily operations.

I thank the Congressmen for the time and attention you have devoted to this matter. I invite you to spend some time exploring the beautiful Reservation.

Thank you.

[EDITOR'S NOTE.—Additional material submitted by Mr. St. Clair may be found in the hearing files.]

[Prepared statement of Mr. St. Clair follows:]

TESTIMONY OF DARWIN ST. CLAIR, SR.
BEFORE THE
SUBCOMMITTEE ON NATIVE AMERICAN AFFAIRS
FIELD HEARINGS - WIND RIVER RESERVATION
April 4, 1993

BIA Reorganization

Mr. Chairman:

My name is Darwin St. Clair and I am Chairman of the Shoshone Business Council. On behalf of the Shoshone Tribe, I welcome you to the Wind River Reservation. We are pleased that the Subcommittee On Native Americans has selected our home for field hearings on BIA reorganization. My testimony will focus on the need to get more authority and funding down to the local agency level.

One of the goals of any reorganization effort must be to assure that the greatest amount of appropriated funds end up being used for direct services and benefits to tribes and their members. In addition, the services and benefits must meet the needs of Native Americans. Delegating decision-making authority and funding to the local agency will provide more direct services and benefits to the local community.

For example, the joint Tribes' proposed Wind River Agency Structure, a copy of which is provided for the record, would shift authority to approve grants, contracts, and agreements to the local agency. This change ensures that the approving officer is familiar with the unique circumstances on the Reservation and that grant and contract conditions are tailored to our Tribes. The standard language added to grants and agreements as required by central or area office rules were developed to protect against a worse case scenario for all tribes. While these protections may be appropriate for some tribes, they result in additional unneeded administrative costs in many cases.

Likewise, the current delegations also require approvals at the area or central office level for matters such as excess property transfer actions, GSA vehicle requests, and copier and laser printer purchases. Requirements for approvals above the agency level primarily result in excess processing costs with the superintendent's recommendation generally being followed as long as there was funding in the budget for such items. Transferring the approval authority and necessary funds to the local agency will free up administrative expenses which can then be applied to direct services. A limited periodic spot check program should prevent any abuses.

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Shifting authority and staff funding for appraisals, archeology, and wildlife biology to our agency level will enhance services to our Tribes. Our proposed land exchanges with tribal members, land leases, and rights-of-way and land sales by allottees are unreasonably delayed and the benefits to the parties frustrated by the inability to complete appraisals in a timely fashion. Protection of our cultural, religious, and archeological sites has been compromised in the past by not having local control over such activities. Results of confidential cultural surveys have been released by area office archaeologists. The Tribes' fish and game program is a model of quality game management. The program could be further enhanced by additional wildlife biologist resources at the local level. Such personnel changes would develop specialized expertise on the Reservation, thus reducing the costs of re-educating area or central office personnel each time and issue requires a BIA decision, thus reducing overall processing costs. These costs savings could then be applied to direct services and benefits.

Importantly, the Indian Self-Determination Act provides that tribes can contract to provide federal services. Contracting of services now provided by the area office is difficult because of the assertion that the Tribes' cannot contract a program if it will limit services to other tribes. By moving as much authority to the local agency level as possible, this conflict will be removed. Moreover, even if the Tribes choose not to contract such programs, the transfer of authorities and functions will increase the availability of professional, skilled, and clerical jobs here on the Reservation where we need them the most. Our tribal unemployment rate is approximately 60 percent. Significantly, many of our college educated members would like to return to the Reservation, but there are insufficient professional and skilled positions.

Another key function that should be transferred to the local agency is the title records processing for the Reservation. As the Congress is aware, the natural resources of the Tribes are one of our most valuable assets. The cost effective and orderly use of our natural resources demand that we have accurate and timely access to title information. These functions are currently handled by the area office. With the transfer of title plant functions to the agency, there will be enhanced accuracy because the persons dealing with the records will be familiar with the lands. Timely access to the records also will enhance land use planning and regulation. Moreover, economic development will be enhanced because land title information will be readily available to persons

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desiring to do business on the Reservation. In addition, lending institutions will be able to get prompt information necessary to conduct financing activities on the Reservation. The lack of a local title plant has hindered our economic development, contributed to at least one adverse court decision partially affecting our sovereignty, and resulted in persons opposed to the Tribes attempting to limit access to county title facilities as a means of hampering Tribal jurisdiction.

The Shoshone and Northern Arapaho Tribes have continually increased and improved our governmental capabilities over the years. Our ability to deal with Reservation residents, other governments, business entities, and other third-parties are no longer handicapped by a limited understanding of the English language or lack of specific expertise. There is no longer a need to have a massive federal bureaucracy to implement the United States' trust responsibility to our Tribe. Implementation of the trust responsibility needs to continue to move towards a relationship of mutual respect based on government to government dealings and fulfillment of true self-determination. True self-determination where we decide how our governments and communities will be structured and we have the tools necessary to achieve these goals. Shifting decision-making authority and funding to the local agency will facilitate this change in dealing with Tribes. Removing obstacles such as dual taxation also will be helpful.

Our Tribes have developed considerable expertise in the oil and gas area over the years. Our oil and gas expertise involves knowledge of the economics of oil and gas production, well operations, legal issues, and marketing. Tribal leases are monitored by Tribal staff for compliance. Leases and other types of agreements are directly negotiated by Tribal personnel. However, during the negotiation process and after approval by the Tribes, several levels of BIA personnel must review the Tribally negotiated agreement. Many of the persons reviewing our agreements have less knowledge about oil and gas than the Tribes. This means not only are federal dollars spent on reviews by staff who are not able to provide real protection from abuses, but Tribal dollars are spent educating BIA personnel. In our recent transaction with Tom Brown, Inc., most of the BIA comments on the negotiated agreement were resolved by explaining to the BIA the meaning of the terms of the agreement most of which were self-evident. These limited BIA comments took over six months to prepare, thereby delaying the start of payments to the Tribes. With personnel, funding, and authority transferred to the local level, the BIA personnel could remain informed during the negotiations, become educated in

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Reservation oil and gas issues, and would be able to promptly complete approval of the leases. The Tribes recognize that this shift of authority will require a change in the Indian Mineral Development Act approval authority provisions.

The shift of authorities and associated funding to the local agency level and the increased governmental expertise of the Tribes will allow for enhanced benefits to the Tribes and our members. Increased authorities at the local level will result in more tailored and cost effective fulfillment of the United States' trust responsibility. Such reorganization also will improve the opportunities for Tribal contracting of BIA programs.

The Subcommittee must keep in mind that shifting only authorities to the local level will not entirely resolve the current problems. The funds to implement that authority must be provided. Some of these funds can be transferred from area and central offices, but some new funds will be needed. Additional funding for needed positions and functions such as appraisers and a title plant should be seen as extremely cost effective. Because economic activities will move forward expeditiously, the funds for such functions will be more than offset by enhanced job opportunities and improved living conditions for tribal members. Remember, an improved Reservation economy benefits not only the Tribes and our members, but benefits the entire local community and ultimately benefits the state and United States as a whole.

The Tribes support generally the recommendations of the Tribal Task Force on BIA reorganization and urge the Congress to proceed with implementation. The Tribes specifically agree with focusing policy related issues under the Assistant Secretary and daily operations under the Commissioner or Deputy Commissioner. The Tribes would suggest that the Commissioner's office be located in Albuquerque, New Mexico under central office west. Daily operations have significant impact on the Tribes and the office should be located conveniently to the majority of tribes. With modern communications there should be no problem coordinating with the Assistant Secretary's staff on issues that involve both policy and daily operations.

On behalf of the Shoshone Tribe, I thank the congressman for the time and attention you are devoting to this matter. I invite you to spend some time exploring our beautiful reservation or, if your time is limited, I invite you to return and enjoy our hospitality, majestic mountains, and wonderful Tribal members at a later time.

Mr. RICHARDSON. Thank you very much, Mr. Chairman.

The Chair now recognizes the Honorable Harvey Spoonhunter, the Chairman of the Arapaho Tribe, Fort Washakie, Wyoming.

STATEMENT OF HON. HARVEY T. SPOONHUNTER

Mr. SPOONHUNTER. Mr. Chairman, on behalf of the Northern Arapaho Tribe, I welcome you to the Reservation. I am Harvey Spoonhunter, Chairman of the Northern Arapaho Business Council.

It is an honor to have the Congressmen at our Reservation for a field hearing. My testimony will focus on the Federal budget process. I will keep my oral comments short, and I will submit my written comments for the record.

The Federal budgeting process is in need of change. Tribal input has been, at its best, token input. Although there has been tribal input, it has only applied to approximately 25 percent of BIA funds.

We agree with the Task Force proposal to make priorities applied to about 70 percent in the funding. The budget process is driven from the top downward. Our involvement is limited to certain priorities for a small, pre-defined funding. The process is not driven by our need for services and access to resources. The process does not fulfill the trust responsibility or meet basic human needs.

For example, one problem arises when Tribes enter into self-determination agreements. In the contracting process, Tribes are required to provide services at the level BIA was required to provide services, but which BIA did not provide in many cases. The funding, however, is provided at an inadequate level allocated by the BIA. Therefore, we either start out with compliance violations or must contribute scarce tribal resources. This occurs even though BIA was not held accountable when it ran the program.

The second problem occurs because BIA funding remains constant or shrinks in terms of real dollars and the need increases. Our population increased by approximately 1,000 persons over the past year. Either some people must go without, or everyone receives less than quality services.

For example, our need for fish and game regulation has increased as the dollars have decreased. We have one of the highest quality fish and wildlife programs in the United States. When the game code was initiated in 1984, it was administered by the BIA, and supported with Federal dollars. In 1988, under tribal control, the grant for full funding was in the amount of \$200,000—the same as when BIA-administered. Since tribal control of the program, funding has gone from \$200,000 in 1988 to \$100,000 in 1993. At one point in 1991, funds were moved to \$50,000. The Chairmen from both Tribes protested the BIA's actions and funds were reestablished. However, funds should have increased above \$200,000 to take care of an expanded program.

Our major concern is that the budget process is, when the budget reaches Congress, it is presented as including full tribal input and meeting our basic needs. In reality, the current process results in the band-aid being applied to the gaping wound of terrible poverty conditions, high unemployment and inadequate funding of education.

The budget process needs to take a bottom upward approach. We are not asking to be better off than other citizens, but we do have a right to achieve at least the basic standard of living enjoyed by most Americans. The budget process needs to identify necessary services, and then identify the funding resources needed to carry out those responsibilities. The process needs to begin at the local level.

Even if cuts must be made as part of the process, the BIA should be required to justify the cuts and provide you with a summary of the needs identified at the local level, and the funds to meet those needs. This will provide Congress with the necessary information to make hard decisions on where to allocate precious Federal Resources. Moreover, this will provide a more accurate picture of the Federal Governments fulfillment of its trust obligations.

If Congress does not fully fund the need for services, a fair mechanism for allocating resources must be developed. Any allocation must ensure that our basic human needs are met. The greater a Tribe's population, the greater the amount of funding to meet the basic needs.

Accordingly, there also must be a set amount of base funding, irrespective of population. Providing population-based funding only that does not allow for delivery of the services, is the same as providing no funding. Importantly, Congress should make sure that the inequities in the Indian Health Service allocation methodology are not repeated. I also urge the Subcommittee to look at problems with the Indian Health Service methodology.

In summary, the key changes in the budget process in any organization are more tribal input over more of the funds, a needs-based process, full funding to meet basic needs, and a population and base funding allocation methodology. I would like to thank the Subcommittee for holding this important hearing on our Reservation, and would invite you to tour the reservation if your time permits.

Thank you.

[Prepared statement of Mr. Spoonhunter follows:]

TESTIMONY OF HARVEY SPOONHUNTER
BEFORE THE
SUBCOMMITTEE ON NATIVE AMERICAN AFFAIRS
FIELD HEARINGS - WIND RIVER RESERVATION
April 3, 1993

BIA Reorganization

Mr. Chairman:

My name is Harvey Spoonhunter and I am Chairman of the Northern Arapaho Tribe. On behalf of the Northern Arapaho Tribe, I welcome you to the Wind River Reservation. It is an honor to have members of the Subcommittee On Native Americans select our Reservation for field hearings on BIA reorganization. My testimony will focus on the Tribal budget process.

The Tribal budget process is in need of change. Frequently, tribal input has been at best "token" input. The amounts and number of programs subject to tribal priority setting have been seriously eroded. Importantly, the budgets forwarded to Congress each year fail to address Tribal needs or priorities. While there has been tribal input in the past, tribal priority setting only applied to approximately 25-30 percent of the appropriated BIA funds. The Task Force proposal increases the funds for which the Tribes have input to about 70 percent. Even though attempts have been made to improve the process over the years, the budget still does not address today's needs or the government to government relationship with the Tribes.

The current budget process tends to be driven from the top downward. At the point we are asked for our input, the decision is limited to how to allocate a small pre-defined pool of funds among numerous well-deserving needs. The process is not driven by Tribal needs for services and access to resources. The process incorrectly presumes that the federal government is adequately fulfilling its assumed trust responsibility to Native Americans and that basic human needs are being addressed.

Self-determination contracts provide a clear example of problems with the current budget process. Under self-determination contracts, tribes enter into agreements to provide Bureau services. The first budget problem surfaces in the contracting process because the Tribes are required to provide the services at a level the BIA was supposed to be providing services, but generally was not providing services. The Tribes are expected to provide this higher level of services and meet all the bureaucratic requirements with the inadequate funding allocated to the program by the BIA. Therefore, the Tribes start out having to meet the full contract

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requirements for services through use of Tribal funds or start out in violation of the contract. This subjects the Tribes to compliance violations, yet the BIA was not held accountable when it ran the program.

The second problem arises each year in the budget process. The funds available to the BIA remain constant or shrink in terms of real dollars. The needs however are increasing. For example, our population increased by approximately 1,000 persons over the past year. Therefore, the Tribes and the BIA have to attempt to provide increased services without adequate resources. The result is that either some people must go totally without or everyone receives less than quality services. An example of the reduction in contract amounts with the requirements and need for services remaining constant or increasing is our fish and game program.

We feel we have one of the highest quality and best managed fish and wildlife programs in the United States. In October 1984, the Wind River Reservation game code was established which allowed for Indian control of hunters and true management of wildlife. The game code has afforded the Shoshone and Northern Arapaho Tribes opportunities previously unavailable. We feel we have a fisheries management program and a wildlife management program that is a model for other tribes across the country to follow.

When the game code was initiated in 1984, it was administered by the BIA. It was supported with federal regulations, federal wardens, and federal dollars. In 1988, the Tribes assumed administration of the game code under a self-determination contract. The grant was to provide full funding for the first year, \$200,000 -- the same as the previous four years under BIA control.

Since Tribal control of the program, funding has dwindled from \$200,000 in 1988 to \$100,000 in 1993. However, the Tribes protested BIA's plan to reduce funding further and have been able to maintain funding close to \$100,000 per year since 1988. At one point in 1991 funds dwindled to \$50,000. Chairmen from both Tribes protested the BIA's action and funds were reestablished at the \$100,000 level. However, funds should have remained at \$200,000 and increased to take care of the expanded program.

Of major concern to our Tribe is that the budget process is not needs based. By the time the budget reaches the Congress, it is presented as having been developed with full tribal input and as meeting the needs of the Tribes and as adhering to the trust

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responsibility of the United States. In reality, the current process is like a band-aid being applied to a gaping wound signifying deplorable poverty conditions our reservations, high unemployment, and inadequate funding of education needs.

The budget process needs to truly take a bottom upwards approach based on basic human needs. Our Tribe is not requesting to be placed on an above-equal footing with other citizens, but would at some point in time like to achieve at least the basic standard of living enjoyed by most Americans. The budget process needs to identify the necessary services provided by the Tribes and the BIA under our respective responsibilities, and then measure the funding resources needed to carry out those services and responsibilities. Tribes must be intimately involved in this process.

As is discussed in Chairman St. Clair's testimony, BIA reorganization should focus on local authority and local funding. With this assumption, the needs based budgeting process will allow the budgets presented to Congress to reflect the true needs of Native Americans. Even if cuts in suggested budgets must be made by the administration as part of the budget process, the administration should be required to provide Congress with the summary of the resources identified by tribes as necessary to meet the on-reservation needs as developed by the local agency and the tribes. In addition, the area and central offices should be required to justify why those needs will not be met. This needs based budget process will result in cost/benefit savings, not necessarily total dollar savings, because the funding will be developed from the needs of individual reservations. This will also provide Congress with the necessary information as it makes the hard decisions of where to allocate precious federal resources. Moreover, this will provide a more accurate picture of the federal government's fulfillment of its trust obligations.

Another key part of the budget process is the method for allocating resources among Tribes. If Congress does not fully fund the need for services on the reservations, several factors must be addressed in developing a fair mechanism for allocating resources. The first factor is need. Any allocation must make sure that minimal basic human needs are being met on our Reservation. Allocating by need will be a function of population and base funding. The greater a tribe's population the greater the amount of funding to meet basic needs. Importantly, to meet minimal human needs there will need to be a set amount of base funding irrespective of population. While smaller tribes may need less

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funding for their populations, the basic structure for delivering those services must have sufficient base funding. Providing population based funding only, that does not allow for delivery of the services, is the same as providing no funding. Establishment of the base funding level should take into account the size of the tribe and the area to be served, including any economies of scale benefits from having a larger population. Importantly, Congress should make sure that the inequities in the Indian Health Services allocation methodology is not duplicated in the BIA allocation process. I also would urge your committee to inquire into the fairness of the IHS allocation methodology.

Tribes must have additional input into how the local agency and the area office reprogram appropriated funds. When situations arise which require reallocation of funds, the Tribes need input to make sure that such actions are consistent with the Tribes' goals for provision of services to Reservation residents. Local control of the budget will increase the likelihood that local priorities are addressed over area priorities. The balance of agency and area priorities needs to be addressed to meet the needs of the tribes in each area. Some tribes will determine that centralized activities are more beneficial than functions located at the agency, this is especially true where you have a number of multi-tribe agencies. Any BIA reorganization needs to provide flexibility and must finally recognize that tribes are not identical.

The approval of tribal budgets by the BIA also needs to be addressed. This function involves approval at the agency level of tribal budgets and modifications and authority at the agency to approve non-recurring and recurring income and per capita payments. True self-determination and respect for tribal governments requires that only minimal review of tribal budgets should be conducted to ensure there are no gross problems which would constitute a breach of trust if allowed to go uncorrected. As with all budget matters, there will be cost and time savings by having the majority of the authority at the agency level.

In summary, the key changes in the budget process in any reorganization are more Tribal input over more of the funds, a bottom up needs based approach, full funding to meet basic needs, and a population and base funding allocation methodology. I would like to thank the Subcommittee for holding this important hearing on our Reservation and would invite you to tour the Reservation if your time permits.

Mr. RICHARDSON. Thank you, Mr. Chairman.
 The Chair recognizes the Honorable Virginia Sutter, Co-Chairman, Arapaho Tribe, Fort Washakie, Wyoming.

STATEMENT OF HON. VIRGINIA SUTTON

Ms. SUTTON. Thank you, Mr. Chairman. My name is Virginia Sutton, and I am the Co-Chairman of the Northern Arapaho Business Council. I also welcome you to the Reservation, and urge you to enjoy your time here.

My testimony will focus on education issues. The Tribes hold education as one of the important priorities for our tribal members. Each Tribe has specific programs devoted solely to enhance the education opportunities for our members.

Our members must receive adequate financial support to achieve their educational goals. We feel that it is necessary that an increased portion of funding appropriated by Congress be distributed at the reservation level. With this in mind, I would like to point out problems that are encountered locally.

As a Tribe, we administer education programs contracted through the BIA using the Self-Determination Act contracting process. The programs we contract are the higher education and adult vocational grant programs. The Tribes also are involved in the Johnson-O'Malley Program for students attending local schools in the kindergarten through twelfth grade. Funding problems with our contracted programs illustrate our concerns.

In higher education, funds allocated for the Reservation are divided between the Shoshone and Northern Arapaho Education Programs. Our Reservation receives the least amount of funding of all education programs under the direction and administration of the Billings Area Education Office. Thus, our college students encounter financial shortfalls every year.

Likewise, in the adult vocational program, we find ourselves unable to properly fund students who want to pursue vocational training. We can only fund up to 4 or 5 students. With the ever-increasing costs of attending technical schools and decreased funding, even fewer students will be funded in the future. With decreased funding for the Johnson-O'Malley program, and more students becoming eligible to participate in the program, education programs for our tribal members suffered because we could not implement solid programs to educate our children.

Under the BIA structure, over half of the budget goes to education. The bulk of this funding goes to BIA schools and related facilities. The limited remainder of the funds is then available to be allocated for programs such as Johnson-O'Malley, higher education, vocational programs. With a strong emphasis on BIA schools, reservations like ours that do not have BIA schools are limited in the educational services provided to our members.

We suggest that funding for programs such as higher education and vocational education be increased and moved into the normal budgeting process. As stated in Chairman Spoonhunter's testimony, such funding should be needs-based.

We feel our Tribe should be more involved in the implementation of any reorganization. Our area education office should be evaluated as to its effectiveness to administer education programs con-

tracted for the reservation. Increased contract support funds to administer education programs should be made available at the local level to administer programs contracted by the Tribes.

Allocations for our reservation in the tribal budget system should be evaluated to see if we are receiving dollars to which we are entitled. Every fiscal year there is a full funding of administration functions of the Bureau, while funding at the local level remains the same.

In the Billings area, there is no funding for the adult education program because we have been told these funds were zeroed out to put money somewhere else in the Indian Priority System. We feel these funds should be replaced so tribal members can at least pursue a GED Certificate to enable them to continue their educational goals.

Finally, we feel our Tribes can design and develop our own education programs without constant regulation from the Federal Government. We feel the Tribes should be authorized to determine what is the best way to meet the needs now and in the future for our tribal members. We feel more funding should be made available for the ever-increasing expenses of education.

As with the other functions discussed by Chairman St. Clair, authority and funds for education should be moved to the local level. We constantly read about the importance of local control over education in the non-Indian community. Local control of education for our members also is extremely important. There must be adequate funding to meet local needs. President Clinton's "A Vision of Change for America" devotes significant resources to education, particularly in disadvantaged communities. We urge you to monitor such funding to ensure that needed funds are directed to reservations which have some of the greatest need.

Quality education is fundamental to achieving self-determination. Properly educated tribal members will be able to achieve a better quality of life and, at the same time, preserve our traditions. As you review BIA reorganization efforts, the Tribe urges you to pay particular attention to educational issues.

I thank you for this opportunity to present views on behalf of the Tribes.

[Prepared statement of Ms. Sutton follows:]

TESTIMONY OF VIRGINIA SUTTER
BEFORE THE
SUBCOMMITTEE ON NATIVE AMERICAN AFFAIRS
FIELD HEARINGS - WIND RIVER RESERVATION
April 3, 1993

BIA Reorganization

Dear Chairman:

Welcome. My name is Virginia Sutter and I am the Co-Chairman of the Northern Arapaho Business Council. I also welcome you to the Reservation and urge you to enjoy your time here. My testimony will focus on education issues involved in the proposed BIA reorganization.

First of all, the Tribes hold education as an important priority for the well being of our Tribal members. Each Tribe has specific programs devoted solely to enhancing education opportunities for our members. We feel it is of utmost importance that our members receive valuable and adequate financial support to achieve their educational goals. With the ever increasing costs of education both locally and nationwide, we feel it is necessary that an increased portion of funding appropriated by Congress be distributed at the local level. With this in mind I would like to point out problems that are encountered locally.

As a tribe, we administer education programs contracted from the Bureau of Indian Affairs using the Public Law 93-638 contracting process. The programs we presently contract are the Higher Education and Adult Vocational Grant programs. The Tribes also are involved jointly in the Johnson-O'Malley program for students attending local schools in the kindergarten through twelfth grade.

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Funding problems that exist with our contracted programs illustrate our concerns. In Higher Education, funds allocated for the Wind River Reservation are divided equally between the Shoshone and Northern Arapaho tribal education programs. The Wind River Reservation receives the least amount of funding for all tribal education programs under the administration of the billings area education office. Thus, financial shortfalls are encountered every school year for our college students.

Likewise, in the Adult Vocational Program, we find ourselves unable to properly fund students who want to pursue training in the vocational area. With funds again divided equally between our two Tribes, we can only fund up to four or five students. With the ever increasing costs of attending technical schools, even fewer students will be funded in the future because of the lack of adequate funding from the Bureau of Indian Affairs. It sometimes seems we are treated as one tribe for purposes of allocating funds and as two tribes when required to fulfill basic needs.

With decreased funding nationally for the Johnson-O'Malley program and more students becoming eligible to participate in the program, we again face declining funding for our students in public schools. Consequently, successful education programs for our Tribal members suffer because we cannot implement solid programs which are beneficial to educate our children and tribal members. The current organizational structure of BIA education significantly impacts these programs.

Under the BIA structure, over one-half the budget goes to education. The bulk of this funding goes to BIA schools and related facilities. The limited remainder of the funds is then

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available to be allocated for programs such as Johnson-O'Malley, higher education, and vocational programs. With such a strong emphasis on BIA schools, reservations like ours that do not have BIA schools are limited in the educational services provided to our members. While we believe that education in BIA schools is important, we suggest that funding for programs such as higher education and vocational education must be increased and moved into the normal budgeting process. As stated in Chairman Spoonhunter's testimony, such funding should be needs based.

We feel our Tribes should be more involved in the implementation of any reorganization. Our Area Education Office should be evaluated as to its effectiveness to administer education programs contracted for the Wind River Reservation. Increased contract support funds to administer education programs should be made available at the local level to administer programs contracted by the Tribes. Full contract support funding also is needed for all contracted programs.

Allocations for the Wind River Reservation in the Tribal Budget System should be evaluated to see if the reservation is receiving dollars to which we are entitled based on our priorities. It seems every fiscal year there is full funding of administration functions of the Bureau while funding at the local level either remains the same or slightly decreases. This year for example, our funding for Higher Education scholarships has increased slightly over funding received in fiscal year 1987. In the Billings Area, there are no funding appropriations for the Adult Education Program because we have been told these funds were zeroed out to put money somewhere else on the Indian Priority System. Moreover, basic funding has not kept up with inflation let alone the escalating

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costs of education. We feel these funds should be replaced so tribal members can at least pursue a GED certificate to enable them to continue their educational goals.

Finally, we feel our Tribes can design and develop our own education programs without constant regulation from the Federal government. We feel the Tribes should be authorized to determine what is the best way to meet the needs now and in the future for our Tribal members. And again, we feel more funding should be made available for the ever increasing expenses of education.

As with other functions discussed by Chairman St. Clair, authority and funds for education should be moved to the local level. We constantly read about the importance of local control over education in the non-Indian community. Local control of education for our members also is extremely important. There must be adequate funding to meet local needs. President Clinton's "A Vision Of Change For America" devotes significant resources to education, particularly in disadvantaged communities. We urge you to monitor such funding to ensure that needed funds are directed to Reservations which have some of the greatest need.

Quality education is fundamental to achieving self-determination. Properly educated Tribal members will be able to achieve a better quality of life and at the same time preserve our traditions. As you review BIA reorganization efforts, the Tribes urge you to pay particular attention to education issues.

I thank you for this opportunity to present views on behalf of the Tribes.

Mr. RICHARDSON. Thank you very much Ms. Sutton.

The Chair recognizes the Honorable Richard Burnett, Co-Chairman, Shoshone Tribe, Fort Washakie, Wyoming.

STATEMENT OF HON. RICHARD BURNETT, SR.

Mr. BURNETT. Thank you, Mr. Chairman. I am Mr. Burnett, Co-Chairman of the Shoshone Business Council. It is a pleasure to have the members of the Subcommittee of Native American Affairs select our home as a site for a field hearing. My testimony will focus on the Office of Trust Funds Management. I would like to submit for the record my written testimony.

In 1988, Congress mandated the tribal trust fund to be audited and certified. Approximately 330 tribes have an interest in tribal trust funds administrated by BIA. According to BIA records, 77 percent of the \$2 billion funded is owned by only 8 percent of all Tribes—including our Tribes.

Concern about trust fund management has been a long-standing issue with our Tribe for almost a century. We are concerned about the efficiency and the accuracy in the procedures of the BIA and other Federal agencies for trust fund distribution and investments. For years the Government has paid no attention to staffing and other needs of the Office of Trust Funds Management. The office is inadequately staffed, both in terms of qualifications and numbers, both in quality control and customer services, and reconciliation was beyond the capabilities of the office.

The General Accounting Office, the Office of the Inspector General, independent accounting firms identify serious mismanagement problems for the BIA. Internal controls are unidentifiable. For example, the accounting firm of Arthur Andersen expressed a qualified opinion, due to an inability to confirm cash balance, lack of sources about documents and input errors.

Similar problems have occurred with the BIA and Minerals Management Services. The proceeding of royalty payments between the MMS and the BIA is the main problem. We have tried, on several occasions, to have trust income payments, but have been unsuccessful, due to lack of source documents by the MMS and the BIA.

Other problems arise because of the red tape of the BIA. Due to the way the BIA is organized, it takes several weeks for information to flow to the Tribes, when our offices are only one block away. When a Tribe tries to obtain financial information, often the agency does not have the information pertaining to our accounts.

Some of the general recommendations are: The Tribal Governments who have accounts with the Office of Trust Funds Management should have greater control over their funds to ensure that not only are revenues maximized, but the economic development is promoted.

The BIA should be required to update all management letters for each area and agencies, and provide copies to the affected Tribes.

Congress should mandate the Tribes to allow them to work with Arthur Andersen and in reconciling all Tribe accounts so that the tribal staff will understand the trust fund accounting procedures.

Tribes in the BIA should work on strategy plans to incorporate concerns of those Tribes who had not had accurate representation in the inter-tribal group.

The BIA should train agencies and tribal staff so that they will be familiar with the trust fund accounting procedures. We, at Wind River, recommend that our Tribe be allowed to contract the responsibility concerning our own accounts. We also recommend that the customers contract position be established at our agency and provide adequate funding to operate the program.

Finally, auditing and reconciliation of our accounts should be a priority within the current review process.

As my testimony shows, there are serious problems with the BIA and the Office of Trust Funds Management. We have identified problems such as inefficiency, ineffectiveness, and lack of communication. The failure of the BIA to carry out its fiduciary and trust responsibilities to Tribes has cost the Tribes. The Tribes had been forced to initiate a suit in Claims Court to resolve problems and mismanagement in our trust funds.

We have the auditing staff to perform a number of functions now being handled by the BIA. We urge that many of these functions should be delegated to the agency level, so that the Tribes can contract these services. In addition, these programs should be adequately funded so that more of the BIA budget is spent where it belongs—on the Reservation.

On behalf of the Shoshone and Northern Arapaho Tribes, I appreciate this opportunity to speak about our concerns. I also thank you for your time, concern, consideration and devotion to correcting problems with the Trust Funds Management.

[Prepared statement of Mr. Burnett follows:]

TESTIMONY OF RICHARD BURNETT, SR.
CO-CHAIRMAN, SHOSHONE BUSINESS COUNCIL

BEFORE THE

SUBCOMMITTEE ON NATIVE AMERICAN AFFAIRS
FIELD HEARING -- WIND RIVER RESERVATION

April 2, 1993

BIA REORGANIZATION

Dear Mr. Chairman:

Welcome. I am Richard Burnett, Co-Chairman of the Shoshone Business Council. It is an honor and a pleasure to have members of the Subcommittee on Native Americans select our home, the Reservation, as a site for your field hearings on the BIA reorganization and restructuring. My testimony focuses on the Office of Trust Funds Management.

I. Background.

During 1988, Congress mandated that Individual Indian Money ("IIM") accounts and tribal trust funds and/or income be reconciled, audited, and certified prior to any funds being transferred to a third party. This mandate arose out of Tribal protests and opposition to the Bureau of Indian Affairs ("BIA") efforts to transfer all trust funds to Mellon Bank and Security Pacific Bank.

As of October 1991, approximately three hundred thirty (330) tribes had an interest in the Tribal Trust Funds administered by the BIA. Cumulatively, this represents approximately three thousand (3,000) accounts. According to BIA records, seventy seven percent (77%) of the Two Billion Dollar (\$2,000,000,000) fund is owned by only eight percent (8%) of all tribes in the United States, including the Shoshone and Northern Arapaho Tribes of this Reservation.

Furthermore, our concerns about trust funds management has been a long standing issue for almost a century. Our concern lies in the inefficiency, ineffectiveness, and inaccuracy in the accounting procedures of not only the BIA, but all federal agencies for trust fund receipt, disbursement, and investment practices. For years, the federal government has paid no attention to the staffing and other needs of the Office of Trust Funds Management. Consequently, the office has had inadequate staff both in terms of qualifications and numbers. They are not able to do much more than

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input daily transactions. Quality control, customer service, and reconciliation were beyond the capabilities of that office.

II. The Specific Problem for Tribes as a Whole.

Reviews of trust funds management have been conducted for more than ten (10) years now. The General Accounting Office ("GAO"), the Office of the Inspector General, and independent accounting and audit firms identify serious mismanagement problems by the BIA. Internal controls are unidentifiable. In addition, there are huge variances in the trust funds operations. For example, the accounting firm of Arthur Andersen & Company expressed a very serious qualified opinion pertaining to the BIA's trust fund statements due to an inability to confirm cash balances, lack of source documents, accounting input error, and the quality of systems implemented by the BIA.

Furthermore, tribal leaders were led to believe they would jointly work with BIA people to initiate a strategic work plan identifying resolutions to this long-term problem. Tribes sent representatives to the Inter-Tribal Monitoring Association, which was formed to ensure such tribal participation, but the BIA failed to ensure that this group truly represented the tribes who have the major portion of the trust fund accounts. Thus, the BIA has failed in fact to work cooperatively with tribal personnel to obtain shared goals as tribal leaders were led to believe by Assistant Secretary Eddie Brown and Deputy Commissioner Matheson throughout all of 1991.

III. The Local Problem.

For the Wind River Reservation, the problems that we have occur with the BIA and Minerals Management Service ("MMS"). First, the processing of royalty payments ("trust income") between the MMS and BIA is the main problem. The Wind River Tax Commission, the revenue branch of the Tribes, has tried on several occasions to reconcile trust income payments, but has been unsuccessful due to lack of source documents by MMS and the BIA.

Other problems arise here at the agency level because of the red tape of the BIA. Due to the way the BIA is organized, it often takes several weeks for information to flow to the Tribes, when our offices are only one block away. Also, we are not sure that staff

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here at the agency level have the experience and expertise to track our funds flow. When the Tribes try to obtain financial information, often the agency does not have the information pertaining to our trust accounts. In fact, the Tribes are not sure our trust funds have ever been reconciled. The BIA has not provided the Tribes with any reconciliations to date. The Tribes are not sure that Arthur Andersen has performed its audit and reconciliations for Wind River because the BIA has never advised us of such. We urge that our accounts be reconciled on a priority basis.

IV. Possible Global Solutions.

Pursuant to Congressional directive, specifically, self-determination by and for Indian Tribes, we recommend the following:

- A. Tribal governments and individual Indians who have accounts with the Office of Trust Funds Management should have greater control over their funds to ensure tribes have greater input regarding placement of their trust funds, so that not only are revenues maximized, but economic development is promoted.
- B. Allow tribal governments that show the ability to maximize investments to manage their funds with minimal BIA supervision. Appropriate allocation of responsibility and related liability issues would need to be worked out between the United States and the tribes.
- C. BIA should be required to update all management letters for each area and agency and provide copies not only to the BIA but to the tribes affected by each letter.
- D. Insist that the tribes be allowed to work with Arthur Andersen in reconciling all trust accounts so that tribal staff understand the trust fund accounting procedures.
- E. Insist that the Secretary of the Interior, the Inspector General, the Director of the Office of Management and Budget ("OMB"), the Chief Financial Officer of the United States, and other higher level BIA and/or Interior Department employees must carry out the Strategic Plan when completed after tribal input. In order to

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accomplish this mandate, the Office of Trust Funds Management requires the additional staff identified in the BIA reorganization report.

- F. Insist that tribes and BIA personnel rework the Strategic Plan so as to incorporate the tribal concerns of those tribes who have not participated in the Inter-Tribal Monitoring Group and develop assumptions for the plan that are current.
- G. The BIA should train agency and tribal staff so that they are familiar with the trust fund account procedures. Additional staff will be needed for this function.

V. Possible Solutions to Local Problems.

- A. Allow the Shoshone and Northern Arapaho Tribes the authority to contract (Pub.L. No 93-638) the responsibility of reconciling our own accounts.
- B. Insist MMS advise the Tribes when it transfers funds to the BIA, so as to eliminate long periods of float.
- C. Eliminate the bureaucratic policies and procedures at the agency.
- D. Establish customer contact functions to the agency level and provide adequate funding to operate the programs.
- E. Make auditing and reconciliation of the Tribes accounts as a priority with the current review process.

As this testimony shows, there are serious problems with the BIA and the Office of Trust Funds Management, both locally and nationwide. We have identified problems such as inefficiency, ineffectiveness, and a lack of communication and cooperation by the staff of the Office of Trust Funds Management and the BIA and other federal agencies. Our input into the Strategic Plan has been minimal. The failure of the BIA to carry out its fiduciary and trust responsibility to the Tribes has cost the Tribes. The Tribes have been forced to initiate a suit in the Claims Court to resolve problems with mismanagement of our trust funds.

The Shoshone and Northern Arapaho Tribes have the auditing staff to perform a number of the functions now being handled by the

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BIA and the Office of Trust Funds Management. The Joint Business Council, therefore, recommends that many of these functions should be delegated to the agency level, so that the Tribes can contract these services. In addition, these programs should be adequately funded, so that more of the Budget is spent where it belongs, on the Reservation.

Congress has mandated that tribes become economically independent. The ability to determine our own destiny is impacted by the flow of funds available to the Tribes. The Office of Trust Funds Management and the BIA have failed in their trust responsibility, therefore, we urge Congress to reject the Strategic Plan as presented by the Office of Trust Funds Management. We urge Congress to insist tribes be allowed to help develop the Strategic Plan, so that it fully incorporates all concerns.

On behalf of the Shoshone and Northern Arapaho Tribes, I thank you for this opportunity to speak about our concerns. I also thank you for your time, concern, consideration, and devotion to correcting the inefficiency of the Office of Trust Funds Management.

/s/afjohs/morg.001

Mr. RICHARDSON. Thank you very much, Mr. Chairman.

The Chair now recognizes the Honorable John Washakie, former Shoshone Chairman and member of the Joint Task Force on BIA Reorganization.

STATEMENT OF HON. JOHN WASHAKIE

Mr. WASHAKIE. Thank you, Congressman Richardson, and Congressman Thomas. I would like to thank you for the many years that you assisted me while I was serving in the past as a Councilman for the Shoshone Tribe. I would say, at times, we had an interesting relationship. Most of all, we had a very good working relationship. I certainly enjoyed it.

As you stated, I currently serve on the Joint Tribal BIA/DOI Advisory Task Force on the Bureau of Indian Affairs Reorganization. I am one of three members from the Billings area appointed by the Secretary of the Interior. Our term started January of 1991. Since that time I have attended approximately 20 meetings, traveled thousands of miles, sat in on countless debates, and listened to long hours of testimony with tribal leaders from all parts of this nation on how the Bureau of Indian Affairs should be reorganized to benefit Native Americans and Alaskan Natives.

In the past, there have been other efforts to reorganize and streamline BIA, but really lacked the essential participation of Tribal Governments, which led to failure, loss of man hours, and wasting of valuable Federal dollars. This is not the case with the present task force effort. The Federal representatives and tribal government representatives have established a process to allow for open communication, consultation and participation for all parties affected by the reorganization of the Bureau of Indian Affairs. The activities of the Task Force reflect the recognition that a key precedent for the future will be for Tribal and Federal Governments to act as partners to administer resources through the structure of the Bureau of Indian Affairs. This partnership signifies the concrete manifestation of the importance of strengthening Tribal Self-Determination and an era of Government-to-Government relationships.

The Task Force submitted to the Secretary of the Interior and the Appropriations Committees of the United States Congress, a cumulative report which incorporates the collective thoughts of the 36 tribal members, 6 Federal members that serve on the Task Force and Native American Organizations, and interested Indian tribal members that address the task force.

The Task Force's guiding principles focused on developing a realistic perception of the basic problems of the Bureau of Indian Affairs. These problems seem timeless and have been the topics of various studies, oversight hearings and countless discussions between the Tribes and the BIA. The Task Force extracted the common themes of the past and identified the source of the problems in the BIA's execution of responsibilities and, at the same time, identified a base strategy for resolving those problems.

The Task Force recommended a three-tiered structural concept for the Bureau of Indian Affairs, and the proposed organization of the Office of Indian Education Programs to meet Federal mandate. A change from the present four-tiered organization structure—

agencies, area office, central office, and the Assistant Secretary's Office.

The Task Force, after development of the organizational structure, developed an understanding of the distribution of operational authority, functions and resources at these levels. The effort was to decentralize, consolidate and streamline the BIA to push resources to the lower operational levels.

The Self-Determination Policy intended a change in the relationship of Indian Tribes and the Federal agencies. The policy anticipated Tribes' participation in decisions which would affect them. Budget reform was necessary to address the respective tribal needs and the priorities of Tribal Governments.

The Task Force developed the tribal budget system and, in February of 1992, began work with the BIA to implement those budget reform recommendations. Some of these have been implemented for 1993 and some were implemented as part of the 1994 budget formulation process. The remaining provisions of the Tribal Budget System are to be developed with substantial tribal participation over a long period of time.

Throughout Indian Country, tribal leaders have voiced the need for economic development. The Task force has proposed that a new Office of Economic Development be established at the Commissioner's level, and that the BIA's credit and financing programs be regionalized outside the authority of the BIA area or regional offices.

The Task Force recommended a change be submitted to the Congress to provide an additional \$20 million in FY 1993 to establish effective agency credit and finance programs. An additional \$72 million would be requested for the Community and Economic Development Grant Program, as well as \$500 million for the Guaranteed Loan Program, and adequate funding to establish an adequate Tribal Bond Guarantee Program.

The Task Force will continue its work to make recommendations with regard to adjustments of internal BIA policies and procedures, Federal regulations and statutory provisions necessary to carry out the reorganization. Most of all, the Agency Level adjustments, and the Area Level adjustments need to be refined and implemented by the Tribes within each area.

I would like to thank you for allowing me to come here today. I have been asked by members of the audience to request that the record remain open for 20 or so days, for them to submit written comments, if you would give consideration to that. Also, again, thank you very much. I see you have got your right-hand man there? How are you doing?

[Prepared statement of Mr. Washakie follows:]

TESTIMONY OF JOHN R. WASHAKIE
SUBCOMMITTEE ON NATIVE AMERICAN AFFAIRS
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BIA REORGANIZATION

Mr. Chairman:

Good Morning, My name is John R. Washakie. I currently serve on the Joint Tribal/BIA/DOI Advisory Task Force on Bureau of Indian Affairs Reorganization. I am one of three members from the Billings Area appointed by the Secretary of Interior. Our term started January 1991. Since that time I have attended approximately 20 meetings, traveled thousands of miles, set in on countless debates, and listened to long hours of testimony from tribal leaders from all parts of this nation on how the Bureau of Indian Affairs should be reorganized to benefit Native Americans and Alaskan Natives.

In the past, there have been other efforts to reorganize and streamline the BIA but really lacked the essential participation of the tribal governments which led to failure, loss of man hours, and the wasting of valuable federal dollars. This is not the case with the present Task Force effort. The Federal representatives and Tribal representatives have established a process to allow for open communication, consultation, and participation for all parties affected by the reorganization of the BIA. The activities of the Task Force reflect the recognition that a key precedent for the future will be for Tribal and Federal Governments to act as partners to administer resources through the structure of the BIA. This partnership signifies a concrete manifestation of the importance of strengthening Tribal Self-Determination and era of government-to-government relationship.

The Task Force submitted to the Secretary of Interior and The Appropriations Committees of the United States Congress a cumulative report.

The Task Force's guiding principles focused on developing a realistic perception of the basic problems of the BIA. These problems seem timeless and have been the topics of various studies, oversight hearings, and countless discussion between the tribes and BIA. The Task Force extract the common themes of the past and identified the source of the problems in the BIA's execution of responsibilities, and at the same time, identified a base strategy for resolving the problems.

The Task Force recommended a three-tiered structural concept for the Bureau of Indian Affairs and the proposed organization of the Office of Indian Education programs to meet federal mandate. A change from the present four-tiered organizational structure. (Agencies, Area Offices, Central Office, and the Assistant Secretary's Office.) The Task Force after development of the

organizational structure developed an understanding of the distribution of operational authority, functions, and resources at each of these levels. The effort was to decentralize, consolidate, and streamline the BIA to push resources to lower operational levels.

The Self-Determination Policy intended a change in the relationship of Indian Tribes with the federal agencies. The policy anticipated Tribes participation in decisions which would affect them. Budget reform was necessary to address the respective individual needs and priorities of Tribal Governments. The Task Force developed the Tribal Budget System and February of 1992 began work with the BIA to implement those budget reform recommendations. Some of these have been implemented for 1993 and some were implemented as part of the 1994 budget formulation process. The remaining provisions of the Tribal Budget System are to be developed substantial Tribal participation over a longer period of time.

Through out Indian Country Tribal leaders have voiced the need for Economic Development. The Task Force has proposed that a new Office of Economic Development be established at the Commissioner's level and that the BIA's Credit and Financing Program be regionalized outside the authority of the BIA Area (Regional) Offices. The Task Force recommended a request be submitted to Congress to provide an additional \$20 million in FY 1993 to establish effective Agency Credit and Finance programs. An additional \$72 million would be requested for the Community and Economic Development Grant Program as well as \$500 million for the Guaranteed Loan Program and adequate funding to establish an adequate Tribal Bond Guarantee Program.

The Task Force will continue its work to make recommendations with regard to adjustments of internal BIA policies and procedures, Federal regulations and statutory provisions necessary to carry out the reorganization. And most of all the Agency Level adjustments and Area Level adjustments need to be refined and implemented by the tribes with in each area.

Mr. RICHARDSON. The record will be open for 30 days, for those of you that wish to submit statements for the record.

Thank you very much for your statement, Mr. Chairman.

Now, I would like to recognize Mr. David Allison, Superintendent, Wind Agency, BIA.

STATEMENT OF DAVID ALLISON

Mr. ALLISON. Thank you, Mr. Chairman.

I did not prepare comments for today. Secretary Brown, on January 27 of this year, gave testimony, I believe. I will make myself available for any questions you might have.

Mr. Washakie just addressed the issue of how this package was put together in this reorganization. This plan just came about. Here at the Wind River Agency, I believe it was a very good exercise for the tribes and the Bureau. The agency is very much in support of the packages prepared.

Mr. RICHARDSON. Thank you very much, Mr. Allison. The Chair will recognize the gentleman from Wyoming.

Mr. THOMAS. Thank you, Mr. Chairman.

Thank you all for your testimony. I hope we can have some time to explore some of the things that we have talked about. I will ask my questions, and we can go back and forth, Mr. Chairman, if that would that be all right.

Chairman Spoonhunter, you talked about funding for contracts, and the notion that funding traditionally, or typically, goes down when the contract is made. Are the contracts to provide the same basic service that was being provided by BIA before? That was for you, Chairman Spoonhunter.

Mr. SPOONHUNTER. Is this on the contract?

Mr. THOMAS. Yes. You had spoken specifically about the game management.

Mr. SPOONHUNTER. Okay.

Mr. THOMAS. I guess I am interested in whether, under the contracts, the Tribes are expected to provide the same service for something less in funding?

Mr. SPOONHUNTER. Yes. That is true. We were funded under the 638 contract for \$200,000 in the beginning. Then, after we took over the game code, it was reduced to \$100,000. We are still providing the same services and we are in need of more funding for our staff.

Mr. THOMAS. What other larger contracts do you have? Do you do contracts for law enforcement for example?

Mr. SPOONHUNTER. Yes, sir. That is for the game and fish contract. It fell under law enforcement in the beginning.

Mr. THOMAS. I guess my question is, for any of you, is it typical, when the contract comes into play, that the funding is reduced with the expectation that the same services will be provided?

Mr. WASHAKIE. Congressman Thomas, that is quite true with the game code contract. We also administer the judicial services contract, and the education programs here, on 638. In the case that Mr. Spoonhunter talked about, the law enforcement contract, or the game law enforcement contract, funding was substantially higher until the Tribes took it over, and then the funding continued to decrease. At the same time, we were expected to provide the same

services that the Federal Government had been providing as far as game code law enforcement offices.

Mr. THOMAS. Vice-Chairman Suttor, I am very much interested in your education. I agree with you that it certainly would tend to improve the economics of anyplace, including a reservation that has to be improved.

What is the cost per pupil for education on the reservation? Is it higher than it is, for instance, in the State of Wyoming? Is that true?

Ms. SUTTOR. Yes.

Another thing, Mr. Thomas, that they fail to take into consideration is that we have increased enrollment in both the Shoshone and the Arapaho Tribe, although our education funds, again, stay basically the same.

As you know, with the increase in technology in different areas, it is really important that our student not only seek the level of a bachelor's degree, but we really need to see if we can't assist them to get up into higher education at the graduate level, with master's degrees.

I think that part of our problem is that they do not recognize that it is really very difficult for the Tribes themselves, to provide the scholarships and grants for our students. Historically, the BIA has been of assistance there. But, I don't think they also take into consideration the cost of living, the increased cost of tuition.

Out-of-state tuition is extremely high, and our students should have the opportunity to seek education at whatever facility they choose. Therefore, the out-of-state tuition of these is much higher. With this increased cost of education, we really have to have more help for our students.

Mr. THOMAS. I was interested in your observation that the least amount of funding for all tribal educational programs from the Billings area comes to this reservation. Could you expand on that a little? I don't quite understand that.

Ms. SUTTOR. Since you were here prior to this, would you like to address that, Mr. Washakie? You had a comment I believe.

Mr. WASHAKIE. I have a comment in regard to the cost per student that really, in the State of Wyoming, relates to K through 12. The only 638 contract school on the reservation is St. Stephens Indian School. They are higher, yes. At the same time, in justification to the Governor's request to determine if St. Steven's had enough funding to complete an actual school year, he responded by requesting from the legislature, \$500,000 each year to supplement St. Stephens Indian School. That is in relationship to cost per pupil, and that is K through 12. The Tribes here actually administer the higher education scholarships, as well as the adult vocational scholarship, which is somewhat different when we talk about post-secondary education.

The problem with the Tribes here in the past has always been that they have their own scholarship programs that they also budget each year. Each tribe budgets from their tribal budgets, and the amount of money. It seems as though the Billings area office penalizes us for also kicking into the education budget, where it is not so much done in the other seven Tribes within the Billings area.

We also are at times in a similar situation with our credit program. Because we do have our own established tribal credit program and fund, we have not been available to participate in the Bureau of Indian Affairs Credit Program, which other tribes within the Billings area do. So, at times, because we do have our own programs, we are penalized. It is not that the need isn't there.

Mr. THOMAS. It is sort of a disincentive for doing something for yourselves?

Mr. WASHAKIE. Yes, it is.

Mr. THOMAS. Virginia, what is the rate of graduation from high school? Do you know offhand?

Ms. SUTTON. I really do not have those figures at hand.

Mr. THOMAS. If you do not have it, do you know—and I agree with you about higher education—what number of tribal members have returned to teach?

Ms. SUTTON. I think that one of our basic problems to encourage the young people to return to the reservation is our lack of internships or practicums with students from the colleges to come back and maybe work during the summer to give them a feel of what they could expect if they come back and work for the reservation. It also gives them a reality that academia is not going to solve all of the problems. They have to have hands-on experience in their job. This is often times a disappointment to students when they do graduate and come back. There is not always the employment made available to them. If they come back on an internship or a practicum, then the people realize the value that this educated student can provide in services for the Tribe. This does encourage them to come back and it also encourages the Tribe to employ them when they have completed their education.

Mr. THOMAS. Fine. Thank you very much. I just wanted to tell you that last week we had four students from St. Stephens who came to Washington with their teacher with the Close-Up Program. I thought it was excellent. They gained, I am sure, a great deal from it. We have a lot of Wyoming students visit us, and I am delighted to have some coming from the Reservation.

Mr. Chairman, let me shift back to you for a little bit.

Mr. RICHARDSON. Thank you. We will do as the ranking member suggests—go back and forth.

Chairman St. Clair, you have had obviously a long history on these issues. How has the Reservation here changed since the 1975 Indian Self-Determination Act?

Mr. ST. CLAIR. We have a high school here on the Reservation now. Even though we do have two or three high schools around on the borderline, not many of our students—

Mr. RICHARDSON. How is the Wind River Agency structured now? What will you suggest for improvement of it as it exists today?

Mr. ST. CLAIR. They could come down and help us out more. The trust that we want from the BIA, as far as scholarships, for instance, St. Stephens, they are having a lot of problems with their school. If they could just help them out a little more, I think that will help some of our students down in that area.

As far as higher education, we have to compete with several Indian colleges in the Montana area—being the lowest funded as far as scholarship funding. We are having to compete against them.

Mr. RICHARDSON. Now, you talked a little bit about BIA reorganization, Chairman St. Clair. One of my thoughts has been that we need to deal with the area offices better. In fact, I think we do not need all of the area offices we have. I would like to see more of a direct relationship between the Tribes and the entity, without the emphasis on the area offices. Are you satisfied with the performance of the Billings Area Office? Do you share my view that perhaps we do not need as many area offices as we have?

Mr. ST. CLAIR. Well, it is very difficult for some of us to try to get things through. When you have to have it right away, why then you have to wait for several days or months in order to get a response from them. In that area, I think, yes, if we could get more of the authority down in this area, we probably would have better dealings with BIA.

Mr. RICHARDSON. Yes. That is my view also.

Finally, my last question for you, you mentioned the solid waste problem in this area. I have a bill in the Congress which would be legislation dealing with the Resource Recovery Conservation Act, wherein Tribes are treated like States. The Tribes can apply for funds for solid waste and get access to the kind of funding that states have. I am just wondering, what is the nature of the solid waste problem here?

Mr. ST. CLAIR. Well, we have several pits that are open to—well, not to the public, but more or less that people use. We have some designated areas that we are using now. We need to decide by this fall to do something with them.

Mr. RICHARDSON. Okay.

Mr. ST. CLAIR. We need to have the funding to do something with it.

Mr. RICHARDSON. Well, I think this legislation that I have will pass, maybe not this calendar year, but in this Congress, because we are reauthorizing the Resource Conservation Recovery Act. There is strong support for having the Tribes treated as States.

Let me turn to Chairman Spoonhunter, and then I will turn the mike over to the Ranking Member.

Mr. ST. CLAIR. Mr. Chairman.

Mr. RICHARDSON. Yes. Of course.

Mr. ST. CLAIR. I just have one other thing I wanted to add too. We need to clean up the old sites—the various closing sites.

Mr. RICHARDSON. Right.

Mr. ST. CLAIR. We need to clean them up.

Mr. RICHARDSON. Right. Okay. So, how many old sites would you say there are?

Mr. ST. CLAIR. About 40.

Mr. RICHARDSON. About 40.

Mr. ST. CLAIR. Somewhere in that area.

Mr. RICHARDSON. Okay. Now, this—

Mr. THOMAS. Would the gentleman yield on that?

Mr. RICHARDSON. Yes, of course.

Mr. THOMAS. Who has jurisdiction? Is it EPA directly you deal with, or do you deal through BIA first?

Mr. ST. CLAIR. There is another one—

Mr. THOMAS. That is the enforcement agency, EPA. Okay. Thank you.

Ms. SUTTON. Mr. Chairman, might I add something to Mr. St. Clair's statement also? With the solid waste, the problem is very definitely a health hazard problem on the Reservation. We have asked the Indian Health Service and the BIA to assist us in that process, because we believe that it is a part of their responsibility to do so.

We have some commercial feed lots that are dumping carcasses in our pits. There is just a lot of things that are going on that we do not have control over that have increased the health hazards of our solid waste problems.

Mr. RICHARDSON. Dr. Sutton, is it any particular kind of contamination? Has it particularly affected the water table? Is there any particular malady for the young kids?

Ms. SUTTON. Yes, it does. I think the fact that it is open pit, accessible to other animals and what have you, that they are close, in some instances, to rivers. If you have a particularly heavy rainy season, this residue would seep down through the ground and would contaminate some of the streams that we have here on the Reservation.

Mr. RICHARDSON. Now, let me turn to Chairman Spoonhunter, because I think you had some very good suggestions on the budget process. After all, it is the budget that makes or does not make things work. How have you fared under the Indian priority system? In your judgment, has this been an effective method of ascertaining what your budget needs are?

Mr. SPOONHUNTER. Well, in our experience here, we are more or less competing against seven other reservations in the region.

Mr. RICHARDSON. Right.

Mr. SPOONHUNTER. What we are feeling is that we are less on the priority list, because we are involved with the reservations in Montana—

Mr. RICHARDSON. Right.

Mr. SPOONHUNTER. In the Billings Area.

Mr. RICHARDSON. Now, you mentioned that your budget is driven from the top downward. How should it work? I assume you are going to say from the bottom up. But, do you have a suggestion on how the budget should emanate?

Mr. SPOONHUNTER. I think population.

Mr. RICHARDSON. Based on population? And how would the bottom moving up to the top be done in your judgment?

Mr. SPOONHUNTER. Are you talking funds being allocated?

Mr. RICHARDSON. Right. In your statement I noticed you felt that many times the budgets are dictated to you from the top, with very little input from some of the local needs. I just wanted to get your thoughts on the record.

Mr. ST. CLAIR. Mr. Chairman, well, one of the things we need to have is the funding.

Mr. RICHARDSON. Right. Mr. Washakie, did you want to say something?

Mr. WASHAKIE. One of the valuable educations for the Council has not been addressed here yet. One of those is developing the Bureau of Indian Affairs' budget. The process in the past, which is the Indian priority system, allowed for Tribes to prioritize 25 percent of the Bureau of Indian Affairs' appropriation in the past. The new

system that we have designed or the task force has recommended will allow for Tribes to participate in 85 percent of that budget development. The remaining part of that is something that we do not have figures or access to. However, we would gladly participate in that.

The one problem with the tribal budget system is that we have not developed a standard assessment methodology to recommend to Tribes to use for needs-based funding—to get to start at the agency-level. That is important and key here, because if we start at this level, and we prioritize as we go up, the Tribes here will also be allowed to participate in prioritizing the area offices budget, which gets us on up to the next level. If we participate at all levels, we will participate in 85 percent of the appropriation, or the submittal to Congress for BIA appropriation. That I think is key, because there are needs.

If we take and look at just one area that is very visible here, the Bureau of Indian Affairs, its key trust responsibility here is surface management. In looking at that issue, when we look at range conservationists that we have here to take care of 1.8 million acres of land, in relation to what BLM would have as one person, they have 184,000 acres for one range conservationist. We have 1.8 million for one conservationist, which makes a tremendous difference.

I asked the same question to members of OMB. They said that the problem was that the Bureau was not putting sufficient justifications to their budget. If we can get those justifications starting at this lower level, where the need is, it will identify that money to Wind River. Eighty-five percent of the Bureau of Indian Affairs' budget can be identified to one Tribe or another in this country.

Mr. RICHARDSON. I think that is an excellent suggestion. You will have my full support in getting that recommendation implemented.

Let me just conclude with my last two questions to Chairman Spoonhunter, and then I will turn the mike over to the Ranking Member. Would you, in effect, prefer more of a direct relationship with the area office or the central office, when it comes to budgeting?

Mr. SPOONHUNTER. I think we would prefer the central office in direct funding because of the timeframe, and I guess the problems that we have in the realty department.

Mr. RICHARDSON. How much review does the agency now require of your budget? Are there a lot of paperwork and meetings involved?

Mr. SPOONHUNTER. No. It is just that they are submitted to Congress. We have had tribal input.

Mr. RICHARDSON. Okay.

The Chair recognizes the gentleman from Wyoming.

Mr. THOMAS. Thank you, Mr. Chairman.

Let me direct some of my inquiries about how we structure Government. I do not think it is just the BIA, or just the tribal, but Governments in general. Just an observation. It seems to me that they have not been enough oriented toward production, towards achievement—that we tend to measure programs generally by what money was put in, without a set of fairly clearly defined goals, and then some measurement of our progress with respect to those

goals. I feel strongly about that. It would seem to me that we would be well-served to move in budgeting in that direction.

I certainly agree with Chris on the Forest Service Plan. The Forest Service spends a great deal of time and effort doing a forest plan, and has input into it. I think it is generally done fairly well. Then the budget comes out, and it is a line item budget, and it may or may not address the plan at all. So, we spend a long time working on a plan and some goals, and then the budget does not reflect that. It would seem to me that, as we move forward, that would be something that we really ought to do.

This matter of the management of the funds—I think, Mr. Burnett, you talked about that. Great issue. They managed to misplace a few million dollars a few years ago I guess. Would there be a possibility of simply managing those funds more locally, or is that inconsistent with the trust agreements?

Mr. BURNETT. Well, I believe we could manage them a lot better, if we had more staff.

Mr. THOMAS. David, what is your observation on that? You are not involved directly with the management, I do not suppose, of the funds.

Mr. ALLISON. Well, to some extent we are involved with the management of funds.

Mr. THOMAS. Would you comment how we might do that more locally?

Mr. ALLISON. Yes, sir. I think that the secret to that is what we have started at the agency. I think we are the only Billings area agency—I am not too sure in the country—that has an accountant on staff. We have a Certified Public Accountant on our staff at the agency. We are now in the process of trying to network with the Tribes with our computers, and trying to establish a system where the Tribes can get more readily their information as to the status of their trust accounts, and watch the monies as they come and go from the agency. I think that is going to improve the situation a lot locally. There has been a lot of discussion about how much of that could be moved to the agency. Of course, that gets into a policy issue, and design of how our system works.

Mr. THOMAS. How many accounts are there on the Reservation? Do you have any idea?

Mr. ALLISON. Oh, that figure is horrendous. I know, in our range units alone, we have about 4,000 accounts, and they are individuals. When you look at the number of people we have here, and the ones that hold land in the heirship issue, those accounts, I cannot tell you offhand. I will be glad to provide you that information.

Mr. THOMAS. I guess I did not realize until a couple of years ago that the trust accounting was for individual tribal members as well as the Tribes.

Tell me roughly, now you shift it over the number of years, maybe 10 years, the number of these activities to contract activities. What was the relative strength of the BIA employees here 10 years ago as compared to now?

Mr. ALLISON. You mean personnel-wise?

Mr. THOMAS. Yes, sir.

Mr. ALLISON. I would say it is approximately the same as it was 10 years ago. I was not here 10 years ago. Just looking back, I have been here 8 years.

Mr. THOMAS. If you transferred the duties to the Tribe under contract, why would the BIA be the same?

Mr. ALLISON. Excuse me?

Mr. THOMAS. Why would the numbers be the same, if you transferred some activities to be done by the Tribes under contract?

Mr. ALLISON. Most of the activities that we have transferred to the Tribes are not a high number of employees in them. So, the court system, the education systems, for instance, I believe we had one person in education here when it was contracted to the tribes, so you are talking about a very small number. The courts are probably the largest number of people, five or six down there, you know, depending—

Mr. THOMAS. Law enforcement. Is that transferred to the Tribes?

Mr. ALLISON. No. We still operate the law enforcement program.

Mr. THOMAS. Oh, you do? I see.

I do not mean to put you on the spot here, but someone mentioned title information, so that transactions could take care things more quickly. Why can't that change be made?

Mr. ALLISON. That would be a policy call by the Bureau. I am in support of the Tribes' position on that.

Mr. THOMAS. So, obviously we have a bureaucracy here that is difficult to deal with.

Yes, Dr. Sutton.

Ms. SUTTON. Mr. Thomas, in regards to that, let's back up to the budget overall for the BIA. Most budgets are broken into two parts, administrative and operational. It appears to me that administration takes up a great percentage of the funds. As it filters down, by the time it gets to our Tribe and some of the other Tribes, it does not appear to me that we get the full benefit of the original monies.

Mr. THOMAS. It is not a brand new idea in Government bureaucracy.

Ms. SUTTON. Well, I just wanted to reiterate that I still believe that.

Mr. THOMAS. Good for you.

Ms. SUTTON. As far as the paper trail for us, we have a lot of difficulty in getting something done very quickly, because when we submit it to the BIA office here, then it has to go to the area office, and it has to come back here. It comes back to us if there are changes. We start going back and forth, and back and forth. Often times the whole issue is lost in administration that I feel is very top-heavy with regard to the different Tribes at the operational level.

I think also, with our 638 contracting, that there is always the misconception that the Tribes can do it cheaper than the Government. I do not know why. Maybe the Government does have a history of excessive spending or something of that order. For instance, with the fish and game, they did not take into consideration that we have an increase in our enrollment of both Tribes. Therefore, our game wardens have harder work to do in keeping up with all of the different types of things that they do for increased popu-

lation. We have improved it with our game code. We have a lot more wildlife to take care of, and yet we continually have a decrease in funds. There is no cost of living worked into that.

Mr. THOMAS. Do you have revenues created by having more and more—

Ms. SUTTON. Yes, we do.

Mr. THOMAS [continuing]. Licenses.

Ms. SUTTON. That is put into our brochures. Then, during the heavy hunting season, that is given what is called I believe merit pay to those who work long hours. I guess there are several things with 638 that I have a lot of concern about. The budgeting process is really just a part of it.

The other thing is that I feel that with the BIA we do not have a lot of solid policy mandates. We got into a little problem the other day with some of our land resources. When we got down to the very nitty-gritty of how we were going to make a decision here, it was very difficult because there was not a policy in place. It was like the BIA might do it, we might do it, or there was just not a real place for decisionmaking there because of the policy. I think that Mr. Allison will agree with me that in several areas, particularly in 638, there is not a solid policy for the Tribes that they can rely upon in times of real stressful decision-making.

Mr. THOMAS. I think we ought to make a point, at least from my view, that this discussion of BIA is not a reflection on the personnel that are here who work hard at it, it is a procedural kind of thing.

Ms. SUTTON. Yes. It is not.

Mr. THOMAS. I get the sense, Chairman St. Clair, that there might be a feeling that because the area office is in Billings, that the Montana reservations have a little bit of a head start, or a little preferred position with regard to that office. Is that a valid observation?

Mr. ST. CLAIR. I do not know. It just seems that we are always on the tail end all of the time—the stepchild or whatever. When things are out, why then it is always the Southern Reservations, and then all of a sudden they think of Wyoming.

Mr. THOMAS. Where are they? How many are there under the Billings Office?

Mr. ST. CLAIR. About eight, including Wyoming.

Mr. THOMAS. Eight. Are all of the other seven in Montana?

Mr. ST. CLAIR. Montana, yes.

Mr. THOMAS. So, we are sort of a stepchild maybe?

Mr. ST. CLAIR. Right.

Mr. THOMAS. Let me go back just a minute to measuring progress. That is why I asked about the rate of graduation from high school. Let me go back to that a moment. Do you see any improvement in that over the last number of years? Have we moved more people to graduation into the schools?

Ms. SUTTON. It is really hard for me to say without any real numbers, because I have only been back to the reservation for 3 years. I spent 10 years with them myself. What I have observed being on campus is that a majority of our students have kind of a cut-off time about their sophomore year. If they make it through their sophomore year, and they get into the junior year, you can

be pretty sure that they are going to go on and finish. We discussed some of the problems with our students with the Endowment Committee at the University of Wyoming last Friday. There is a concern that maybe we are not encouraging enough of our high school students to really go on to higher education. I think, there again, you have to look at the funding. We cannot always assure these high school graduates that there is going to be funding for them. There is the Pell Grant, and some of the other foundations. There are a lot of good scholarships out there. They are primarily for four-year colleges. We feel if we can get our students through at least CWC with an Associates degree, that this is going to encourage them to go on. Since I have only been back a short period of time, I cannot say if there has been an increase. Perhaps maybe Mr. St. Clair or Mr. Washakie could fill you in on what has been the attrition rate, and have we increased our graduates.

Mr. Washakie, could you?

Mr. THOMAS. Perhaps you do not have that number before you.

Mr. WASHAKIE. I do not have a number, but I know that there is a significant number of high school graduates now.

Mr. THOMAS. Okay.

Mr. WASHAKIE. At one time it was at the ninth-grade level on the Reservation. I know that it is significantly higher.

Mr. THOMAS. I, of course, agree with you entirely. Higher education is the goal for all of us. On the other hand, getting through a secondary education for everyone is very important. I think the use of technical schools is great, and I think it is wonderful to have the Western Wyoming College here. Not everyone goes through a Baccalaureate degree and so on.

What about health care? Dave, I will maybe ask you again, are we making progress in terms of preventive illness? Are we making progress in terms of fetal alcohol syndrome? Is there a measurement of this? Do we have a goal? Is there a plan for health care on the reservation?

Mr. ALLISON. Not that I am trying to dodge the question, but that is a question that probably should be directed to some of the tribal people who are working on the Health Committee.

Mr. THOMAS. What is your role in the BIA with health?

Mr. ALLISON. As far as health, that is primarily the role of the Indian Health Service—that is the Health Service.

Mr. THOMAS. They are here also on the Reservation; is that correct?

Mr. ALLISON. Right.

Mr. THOMAS. You do coordinate with them?

Mr. ALLISON. Yes, particularly in the area of drugs or drug problems, social services, we are involved with them a lot, and child protection. That is our primary involvement with health.

Mr. THOMAS. Anyone want to comment on that?

Yes, sir?

Mr. ST. CLAIR. I think one of the biggest problems that we have here is, as I have said before, that we have treatment centers all over the state for our youth; but, when they come back here to the Reservation, they will not have any place to go. I think we talked about wanting to have an after-care center here so we could work

with them and get the parents involved. This has been a problem for a long time.

Mr. THOMAS. Sure. I understand.

Mr. ST. CLAIR. The other thing is that we have an alcohol problem here, and I think we need to have something for that, like a detox center, maybe. At one time we had one here, back in the 1970s, but that was done away with by HIS and moved into another area. But we still have the program, which is an outpatient-type treatment.

Mr. THOMAS. I guess I am a little off to BIA then. There is a little shift over then to the Indian Health Service generally?

Mr. ST. CLAIR. Right.

Mr. THOMAS. May I ask you one more question? Our delegation has been interested in advocates for the Thunderchild Program. Is that something you all think to be useful?

Mr. ST. CLAIR. Partly. We can just send them all over there, you know.

Mr. THOMAS. No. I understand.

Mr. ST. CLAIR. Due to some of the patients they have, they would rather prefer to go someplace else.

Mr. THOMAS. You support the Thunderchild activity?

Mr. ST. CLAIR. Well, to some extent, I guess. We utilize it.

Mr. THOMAS. I understand there are more individuals from Wyoming there than any other place.

One more question. I realize these are fairly broad. Tell me a little—

Mr. ST. CLAIR. One more.

Mr. THOMAS. Oh, I am sorry. You were not finished.

Mr. ST. CLAIR. One more is that we also have an outstanding diabetic program here too. We are wanting to try to see if we cannot get a facility or funds for that to set something up.

Mr. THOMAS. Is diabetes a particularly troublesome thing for Indians?

Mr. ST. CLAIR. Oh, yes.

Mr. THOMAS. Is some of it diet-driven, do you suppose?

Mr. ST. CLAIR. I am not sure. My family was wiped out from diabetes.

Mr. THOMAS. Thank you.

Back to educational funding. To what extent is there a utilization of boarding schools on the reservation?

Ms. SUTTON. Not a high number of them. I think there is SIPI, there is Riverside. There are not a lot of the students going. There is Haskell, of course. Haskell has begun now a four-year college, as I understand.

Mr. THOMAS. Is that a good use of BIA money?

Ms. SUTTON. I would say that it has been, up to this point. I am not really familiar with how many students we have here. I think, in the past, that it was utilized quite heavily.

Mr. THOMAS. It just seems to me that you have to reanalyze some of those kinds of things, and you have X-amount of dollars to spend on education, and you say to yourself, how do you best spend those? How do you get the best results out of those bucks. I do not know what that is. Do you have a structural arrangement here? At the BIA school, David, St. Stephens is a BIA school then?

Mr. ALLISON. That is correct.

Mr. THOMAS. With the availability of public schools—and I just ask this out of curiosity—why do we have a BIA school?

Mr. ALLISON. My personal feeling is I believe that St. Stephens answered some needs for some students that were just not able to be handled other places. I think they offer a unique curriculum and approach to some things. I believe there are some students in St. Stephens that, if it was not for St. Stephens, they would drop out of the system. That is my personal feeling.

Mr. THOMAS. Just an observation. I could not agree more with your notion that these ought to be local. Education certainly ought to be basically local decisions.

Thank you, Mr. Chairman.

Mr. RICHARDSON. Chairman Burnett, I noticed that you had your hand up. Did you want to say anything?

Mr. BURNETT. No. I changed my mind on that.

Mr. RICHARDSON. Okay.

Ms. Sutton, let me direct a couple of questions to you. It is my understanding that, in this area, there are no adult education program funds because of the IPS. Is that correct?

Ms. SUTTON. Yes.

Mr. RICHARDSON. How does this work? Do the other Tribes in the Billings area control these funds by prioritizing other things in the IPS? Is that how it works?

Ms. SUTTON. Well, I am not really sure. We have a program called Sky People. In Sky People, they have a certain amount of funds that come down from the BIA, and then they also have a tribal program. I think the Shoshone have one similar to that. The tribal funds in the past have been utilized quite well. We have been able to fund several students. With the decrease in our funding availability, we have had to rely heavily upon the BIA funding.

I know that, in the past, that we have to increase it, and we have not been real successful in that.

Mr. RICHARDSON. Now, are you familiar, Ms. Sutton, with the Self-Governance Demonstration Project?

Ms. SUTTON. No, I am not.

Mr. RICHARDSON. Well, under this program, Tribes get a block grant under a compact with the Secretary, and then they can prioritize funds any way they want. How would you feel if we included education in this program?

Ms. SUTTON. I think that, on the local level, with the Tribes, we would probably be better oriented to handle that money. We could make it go further because we know our students, we know our colleges, and we would be able to implement it much better on a local level.

Mr. RICHARDSON. Well, maybe we should include education in that.

Ms. SUTTON. I think that that would be advisable. If they could, revise a fair and equitable sharing for all of the Tribes in this area, the seven Tribes in Montana, and our Tribe. It is not that difficult to get a data analysis of how many students we have of certain ages, and prorate the money to the Tribes, based on the student count. In that way we would be able to fund more students.

Mr. RICHARDSON. Ms. Sutton, how would you incorporate local control into the BIA budgeting process? I think we all touched on it. How would you do it?

Ms. SUTTON. Well, that is really a big step. The Joint Business Counsel usually works together on major projects. Now, with the project of this size, there would have to be consideration of both the Arapaho and the Shoshone. I think what they would have to do is work together to develop some plan that would work for both Tribes. Maybe it could be handled jointly, at the level of how they would monitor and how they would evaluate it.

Mr. RICHARDSON. Now, let me go to Mr. Washakie. Has the Task Force met with the Clinton Administration? Do you foresee the work of the Task Force reorganization continuing in spite of the change in Administration?

Mr. WASHAKIE. Yes, I do. The Task Force has not formally met with President Clinton. I was involved in his campaign, as perhaps a lot of people know, and did have a lot of input. Basically, the input that is in there comes from a collective group of meetings that I have attended or have been associated with over the years.

The task force is going to continue. The tribal budget system that has been talked about here today, formerly, the Indian Priority System, needs to be developed. It needs to be refined. The regulations and policies, when you look at BIAM-10 for the Bureau of Indian Affairs, at this time it is 36 inches tall. If you compare that to the Bureau of Reclamation Manual that runs the Bureau of Reclamation, and delegates responsibilities, it is about an inch and a half. Those policies and regulations and that need to be changed, as well as some self-determination laws to allow for Tribes to become a partner, if you will, in this Government-to-Government relationship. Those changes need to take place. So, the Task Force will continue.

Secretary Babbitt, from what I have been told by other representatives in the Billings area, has already made a commitment to continue the reorganization of the Bureau of Indian Affairs. The tribal budget system, as you are aware, is already a part of the planning process for 1995.

Mr. RICHARDSON. Now, John, how would regionalizing the credit and financing offices improve economic development? Do you think that would just be more local control, more local expertise?

Mr. WASHAKIE. Not only that. It gets them nearer to the lending centers that Tribes deal with. In our case, Denver makes more sense, because of our locale in the Billings area, and Aberdeen area is proposed to go into that. By regionalizing that, we consolidate that office, as well as, hopefully, if the Congress appropriates some of the funds that I talked about, we will have funds to actually staff, reorganize and set up those offices, and something for the Tribes to be able to go in there with a responsible program and borrow money, or even to establish bond guarantees for our enterprises, and other people that really need to have a mechanism to do that. So, yes?

Mr. RICHARDSON. The area offices, as you know, I have some problem with the way they exist today. What if we had a few regional offices and more of the funding go directly to the Tribe? What is your view? Has the Task Force discussed a reduction of

area offices, as opposed to so many area offices? What is your view of that?

Mr. WASHAKIE. There is such a diversity in tribal Governments. They range from small reservations, California, to multi-agencies. When you look at them, they have different needs. Those different needs are something that the Tribes in that area want to be able to determine or to actually establish the area office or regional office.

The regional office that we have had in the past, usually puts us in Minneapolis, which is quite a disadvantage to us. Whereas, if we can design and work with the Tribes in this area to design an area office, or a technical service center that we are giving the flexibility and the recommendations from the Task Force to, that will allow for each Tribe to be able to access those resources and provide a better service to the Tribes.

Mr. RICHARDSON. What if we had national centers of expertise that all Tribes could access. What if we de-emphasized or did away with the area offices? Do you think that would work? Would the Tribes have that particular access into this expertise?

Mr. WASHAKIE. Again, we have had discussions on that. As of yet, we have not made a recommendation, to my knowledge, on areas of expertise. The Bureau of Indian Affairs does have a Minerals Office in Denver. Much of the expertise in the area of lumber is in the Portland area. So, Tribes like Flathead have moved their Bureau of Indian Affairs to Portland. There is such a diversity there.

Some small Tribes rely on the area office because of the resources, there are more resources. They are multi-agencies, which means there are four to six Tribes there, so they cannot really get that expertise. To my knowledge, we have not made that decision on anything other than economic development offices.

Mr. RICHARDSON. My final question to you, John, because I think it is relevant to what my colleague and I do with legislation regarding BIA reorganization, is what are you suggesting people like Craig, myself and in the Senate do? Should we move a bill on BIA reorganization now or should we wait? The only concern I have is—I think there should be a continuation of the Task Force, but we do not want you guys to stay in business forever. I think there needs a point where we come forth and really try to reorganize the BIA and try to make it more efficient as you have suggested. What is your advice to us as to when we should move?

Mr. WASHAKIE. I would think within the next year is a good time to move on this issue. I think that there are some things that will be carried over. The Bureau has developed teams, such as the Champions Team for the Budget Process. There are always review of those regulations and processes after they have been completed.

I would hope that it does not continue more than one year. At the same time, I can see the benefits of an advisory group through the Secretary of the Interior. I strongly support an advisory group on various issues, especially where conflicts arise within the Interior Department.

I know that Senator Inouye has, at one time or other, discussed a bill in an advisory group to the Secretary of the Interior, as well as to the Assistant Secretary, and we have recommended that.

As far as the work, we would hope that the Task Force work does not continue much more than another year.

Mr. RICHARDSON. I have more questions of Mr. Allison and Mr. Burnett, but I am going to shift now to the gentleman from Wyoming.

Mr. THOMAS. Why don't you go, John?

Let me ask a question and make somewhat of an observation. Often, when reorganizations take place, why we have shifted some of the boxes around and then wonder when something is going to change. Is there any sort of a clear, measurable goal for what you would anticipate happening as a result of the changes in five years? Could one measure something and see if the change has indeed produced something?

Mr. WASHAKIE. Hopefully, yes, we will accomplish that. One of the problems with reorganization in the past at the Bureau of Indian Affairs that you set up a bunch of boxes and you merely move employees into those boxes, and you start talking about personnel performance. There are good employees within the Bureau of Indian Affairs, but there are also poor performers that affect the delivery of services and resources to the agency level.

I firmly believe that through the process that we have established with the Task Force of allowing people—whether they be tribal members or interested, non-profit organizations, or national organizations—to come in, the problems have been identified. I think that you will see a streamlining of that, which will be beneficial to Tribes. Actually there will be an elimination of some positions within the Bureau of Indian Affairs if our recommendations are followed through—132 positions I believe in the central office alone.

Mr. THOMAS. Thank you. I appreciate the work you are doing on it.

Mr. RICHARDSON. Thank you, John. I know you have other responsibilities. It is nice to see you again.

Let me ask Chairman Burnett and perhaps Mr. Allison, also. On the trust fund issue, if the Congress allows the Tribes to manage these funds, do you think the United States should maintain its trust responsibility over these funds?

Mr. ALLISON. Well, I think that is an issue that will have to be resolved nationally. As John just said a minute ago, you know, we have a very great difference among the Tribes and their ability to do things. I would think that any program like that or any changes like that should have options to accommodate all of the different Tribes, and how they feel about it, and what they are capable of doing. We have differences here just between the two Tribes—

Mr. RICHARDSON. Right.

Mr. ALLISON [continuing]. Of interest and direction.

Mr. BURNETT. I think these funds could be negotiated.

Mr. RICHARDSON. Okay. Now, what if you had one tribal leader to manage the trust funds and there is some kind of a mismanagement problem. Then the subsequent tribal leader comes in and wants the funds restored. There should be Federal obligations in regard to these funds. We would all agree on that.

Now, what if we had some demonstration projects, and we took your suggestions? On 638, for special management of trust funds,

what if we gave some language acknowledging that the United States maintains a responsibility for these funds, but also gave, as a demonstration project, some Tribes specific authority to manage the funds so that we start moving into a more efficient system? I think the General Accounting Office has come up with \$1.7 billion in mismanaged tribal trust funds. So, what we are doing is not working. I think you had a very excellent suggestion about Arthur Andersen, either you or the Chairman over here.

Would you welcome something like this—a demonstration project?

Mr. BURNETT. That would be good.

Mr. RICHARDSON. Mr. Allison, what would you think?

Mr. ALLISON. We would be very willing to participate in it. I think now we are improving our capabilities at the agency to be able to do something like that. I think it is important to note that, as John and some of the others addressed, these delegations of authority going out to the agency. We feel that we are very taxed right now in being able to deliver the services that we should. With that, it is going to require some additional staffing to be able to do that, whether we do it or it is contracted to the Tribes. One of us is going to have to provide that.

Mr. Schumacher, maybe you could give us a little explanation on this.

Mr. RICHARDSON. Of course.

Mr. Schumacher, if you could just step up and identify yourself for the record?

Mr. SCHUMACHER. Mr. Chairman, I am John Schumacher, attorney for the Shoshone Tribe. The Councilmen, most of them are new. On this trust funds management, Tribes are currently litigating against the United States for having mismanaged those.

For example, the Shoshone Tribe currently manage several million dollars worth of investments of tribal funds, have been doing that in a prudent fashion for a number of years, and do not see why they would not be able to do the same thing with trust funds with an agreement. I think they believe the trust responsibilities should be in place, but that that should deal with setting up a management plan and proving that where some of the risk of specific loss actually may be borne by the Tribes, and the Tribes would be assuming that responsibility. Let's negotiate that.

The Tribes have been running their own tax department, collecting funds, managing those funds, as well. They think they have most of that expertise here and, with a project in place that specifically allocates where the trust responsibility begins and ends, that there would be a way of ensuring the trust responsibility as well as letting the Tribes get their money into investments that are going to maximize their returns consistent with managing them as a responsible Government.

Mr. RICHARDSON. Mr. Allison, let me ask you two questions. Because of the bureaucracy, you may not want to answer. I would be interested in your personal views. Mr. Thomas and I and many others were interested in developing good, sound economic development strategy on Reservations, and this Reservation specifically. What are your personal opinions on how we could foster economic development?

Mr. ALLISON. My personal opinion is that I think in the past we have looked at the great savior to come in—a plant, Hewlett-Packard, somebody like that. In my view, economic development in the west—and I am not limiting it to just Reservations—in some senses we are not much different than the smaller towns around here that have put a lot of money into trying to trap or to entice these people to the Reservations or to these small towns.

I think the hope lies in maximizing all of our resources—getting our people in business, getting them established, small businesses, developing our agriculture to the maximum, tourist industry. I think we have got to turn away a little bit from this view that we are going to have a big plant. The one exception is the extraction industry. That is a boom-and-bust cycle. I am sure New Mexico is not much different than we are on that. I think we have got to kind of refocus a little bit as to how we are going to accomplish these things.

We have quite a few people here looking for jobs now, and then we have more people entering the job market every year. I think we have got to start looking at those figures and what is realistic and what our abilities are.

Mr. RICHARDSON. If you were not the BIA superintendent but were a private citizen with a very strong expertise in BIA, how would you advise this subcommittee on restructuring the agency?

Mr. ALLISON. Well, I think I would have to say take a hard look at the material that has been put together.

Mr. RICHARDSON. From the Task Force?

Mr. ALLISON. Yes. From the Task Force. There is a lot of good material in there. We have already implemented a large part of that, particularly the delegation of authorities. We had a lot of delegations here that I know a lot of other areas did not have that our area directors delegated to us. With this Task Force's recommendations, we have implemented a large part of those, with the exceptions of the ones we do not have the manpower to implement.

Mr. RICHARDSON. How many private investors exist in the Reservation now, to your knowledge?

Mr. ALLISON. Private investors?

Mr. RICHARDSON. Private industry, private sector?

Mr. ALLISON. Private sector? It would be pretty tough to say. I mean, you would have to look at how many are farmer/ranchers. I look at those as being investors in our economy here, our entrepreneurs.

Mr. RICHARDSON. Are private investors wary about investing here on the reservation? Do you know?

Mr. ALLISON. Yes. I think they still are wary about investing on Reservations.

Mr. RICHARDSON. You know, third-world countries have OPIC, the Overseas Private Investment Corporation, to ensure United States private investment. You know, maybe we ought to consider doing that on the Reservation, to help the Reservation.

Let me see if my colleague has any further questions, because there is a little procedure I wanted to discuss with you.

Mr. THOMAS. Let me just sort of wind up here then.

Mr. RICHARDSON. Sure.

Mr. THOMAS. Back to you. I again want to say how much I appreciate you coming and your ideas, and your coming to Washington from time to time. Let me give you sort of a quick, hard question, and then go around. I would like each of you to respond, if you would. If you were us, and you could control the Committee and the Congress, what single thing would you do that would be most important to the Wind River Reservation and to your Tribes? I will let you think about that a minute.

I want to recognize my friend Vern Vivian who is here. Vern is a rancher from down in Carbon County, and working on some things around Fort Steel that involve Indians and so on. He is a former legislator also, and I think currently a member of the State ASCS Committee. Good to see you, Vern.

Mr. Chairman, would you start? What single thing do you think we could do that would have most impact on your life?

Mr. ST. CLAIR. Probably the dual taxation.

Mr. THOMAS. Thanks. Appreciate it.

Mr. BURNETT. More local authority to have our own—

Mr. THOMAS. Local authority to have more autonomy?

Mr. BURNETT. Right.

Mr. THOMAS. Okay. Very good.

Mr. SPOONHUNTER. At the central office, the same as the Navajo Tribes and some other tribes receive.

Mr. THOMAS. Okay.

Ms. SUTTON. I guess, historically, the 638 contracting has not been a real success on some reservations. It started out very weakly, especially the Indian Health Service, and BIA. I guess what I would like to see is less bureaucratic process within the BIA, in its relationship to Tribes.

I would like to see the two Tribes on this Reservation have a better chance at developing some 638 contracts in which they would learn to be able to run those programs, and eventually take over their own self governments of not only their programs, but the things on the budget level so that they would have adequate funding for each and every one of the programs.

I think a part of the self-governance is learning to successfully operate each and every one of these programs as the process begins.

Mr. THOMAS. Thank you very much. It is really an interesting process, and a challenging one. Some of the hearings the Chairman has had, he has been very active, and I think continues to be. Really some challenging things, talking about recognition of tribes. I think the idea that you have sort of a central office, almost invariably you come up with some cookie-cutter kinds of things that, gosh, you have Tribes that have less than 200 members, you know. So, there is a great variation in that thing.

This matter of gaming, of course, will continue to be a very important one. You mentioned dual taxation—very important. All of these things are—religious freedom—we have had a couple of hearings on that one. That is very difficult, in terms of management of lands and so on. I think there is a great prospect for that. So, we appreciate your input. I hope you will continue to share that with us.

Thank you so much for your hospitality.

Mr. RICHARDSON. I think the gentleman from Wyoming conducted a very useful exercise in asking everybody to summarize their main message to this Subcommittee and to the Congress. I have listed several things that have come out of this hearing. I have listed more local control, trust funds management, streamlining and the budget process.

Chairman St. Clair mentioned dealing with the dual taxation problem; more direct control with the central office; more direct contact; less emphasis on the area offices; dealing with the solid waste problem; not enough solid policy mandates from BIA; the importance of education; streamlining; the BIA education process; and less bureaucracy at BIA, including education and the Self-Governance Funds. I think all are very useful suggestions.

In conclusion, Chairman St. Clair, you mentioned the need for health facilities. Is there an IHS Hospital nearby?

Mr. ST. CLAIR. It is an outpatient clinic.

Mr. RICHARDSON. There is?

Mr. ST. CLAIR. We have two of them here on the Reservation.

Mr. RICHARDSON. There are two?

Mr. ST. CLAIR. Yes.

Mr. RICHARDSON. When you mentioned an aftercare facility, you were referring to outpatient?

Mr. ST. CLAIR. No, residential.

Mr. RICHARDSON. Residential?

Mr. ST. CLAIR. Yes.

Mr. THOMAS. Would you do something I think would be interesting for all of us? You are familiar with this. Would you give us a little global view, beyond this Reservation, as to what you see as priorities in the Congress with regard to Native Americans?

Mr. RICHARDSON. I certainly will. I think we have discussed this. I think you touched on many of them. One is the issue of BIA reorganization. How we can make the system work better. That is a major priority of ours.

Number two, Craig, as you mentioned, Indian gaming issues are becoming very hot right now because of the expansion of Indian gaming activities and some of the states basically concerned about those activities.

Number three, health care. We have the new Administration coming forth with their health care plan. We want to make sure that communities within the Indian health care system that do not have a basic health component package in managed competition are properly taken care of. As you all know, in rural areas, we do not always have a competition system. So, how can we make sure that the Indian Health Service is channeled into a managed competition system? Education is a big concern of ours. How can we improve BIA schools? What can we do about some of the BIA construction issues? Dual taxation: I have oil and gas in New Mexico, and this is an issue that we have initiated some legislation on. Agriculture is another concern of ours that we are looking at. How can we maximize the agriculture, fish and wildlife, on Indian Reservations.

The whole concept of the Self-Governance projects where we are basically trying to turn over a lot of the decision-making and budgeting authority to the Tribes directly is something we are looking

at. I know my colleague is a great expert on how to limit bureaucracy, in making it more efficient. So, that is the sweep that we are looking at.

I have 28 Indian Pueblos that I represent, along with about a third of the Navajo Nation. One of the things I have learned about Native American issues is that they are not the same everywhere. They have identities of their own, problems of their own.

We were in Connecticut two days ago, where we are dealing with gaming issues. They have a thriving casino. That is almost the extent of the entire Reservation. So, we are trying to learn as much as we can.

I know my colleague has got a reputation for being a grass-roots representative. He urged our Subcommittee to come here to deal with some of these problems. I feel as Chairman I have learned something of the problems here. I hope we can continue working with you. Maybe we can deal with some of these health issues, Chairman St. Clair, and these reorganization issues. I very much appreciate the hospitality that you have shown us.

With that, I would like to thank all of you for attending. I, unfortunately, have to be off to Montana sometime this afternoon, so I will not partake of the Reservation as much as I wanted to. The hearing stands adjourned.

[Whereupon, at 11:20 a.m., the Subcommittee was adjourned.]

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