



BRIEFING PAPERS



2009 BUDGET AND PAST FUNDING LEVELS FOR
NATIVE EDUCATION

NIEA APPROPRIATIONS PRIORITIES FOR
FY 2009 AND FY 2010

AMERICAN RECOVERY AND REINVESTMENT
ACT OF 2009

NATIONAL INDIAN EDUCATION ASSOCIATION
AMENDMENTS TO THE AMERICAN RECOVERY AND
REINVESTMENT ACT OF 2009 IN THE SENATE

NATIONAL INDIAN EDUCATION ASSOCIATION
AMENDMENTS TO THE AMERICAN RECOVERY AND
REINVESTMENT ACT OF 2009 IN THE
HOUSE OF REPRESENTATIVES

NATIONAL NATIVE EDUCATION
RECOMMENDATIONS FOR THE 111TH CONGRESS

REAUTHORIZATION OF THE ELEMENTARY AND
SECONDARY EDUCATION ACT/
NO CHILD LEFT BEHIND

INSUFFICIENT FUNDING FOR THE CONSTRUCTION
AND REPAIR OF BIA SCHOOLS

FUNDING AMERICAN INDIAN-ALASKA NATIVE
HEAD START AND EARLY HEAD START

HIGH SCHOOL EQUITY FOR NATIVE STUDENTS
PREPARING NATIVE STUDENTS TO ENTER COLLEGE
AND THE WORKFORCE

TRIBAL EDUCATION DEPARTMENTS

FUNDING INDIAN EDUCATION THROUGH
IMPACT AID

THE JOHNSON O'MALLEY PROGRAM

BRIEFING PAPER

FEBRUARY 9, 2009



2009 BUDGET AND PAST FUNDING LEVELS FOR NATIVE EDUCATION

Even though President Bush is no longer in office and the President is now President Obama, President Bush's FY 2009 budget is still an instructive baseline as we seek improved funding in the FY 2009 Omnibus appropriations bill that Congress plans to pass in the next few weeks. It is expected that President Obama will submit his FY 2010 budget request to the Congress in the next couple of months. As we move forward in seeking adequate funding for Native education in future budgets and appropriations bills, it is helpful to look at past funding levels from Congress and President Bush's 2009 budget request to underscore the severe underfunding of Native education programs to justify our future funding needs.

President Bush submitted his proposed budget for FY 2009 to the Congress on February 4, 2008. The Senate and the House held hearings on the President's FY 2009 budget during the last Congress (110th Congress) but were only able to pass the DOD and military construction appropriations bills before the end of the session in October 2008. Since then, much has changed with the election of President Obama and many new faces in the Congress. We are hopeful that the new Administration and the new 111th Congress will make funding for Native education a priority in future appropriations bills but it will take all of us working together to ensure that the new Administration and the new Congress understand and address the funding needs of Native students.

The new Congress convened on January 6, 2009, and is now working on passage of an economic recovery package, which contains, at this point, helpful funding for Native education, including school construction, modernization, and repair funding at the Bureau of Indian Affairs and at the Department of Education, funding for No Child Left Behind and for the Higher Education Act at the Department of Education, funding for the Head Start Act at the Administration for Children and Families at the Department of Health and Human Services, a State Stabilization Fund for educational purposes, and a tax credit school bonding program at the Department of the Treasury.

As stated above, the new Congress plans to enact an FY 2009 Omnibus appropriations bill soon given that a Continuing Resolution to fund the Government under FY 2009 expires on March 6, 2009. This Omnibus appropriations bill will contain funding for all of the non-defense related agencies, including the Department of the Interior, Department of Education, and the Department of Health and Human Services, through September 30, 2009.

For FY 2010, the House and Senate Budget Committees will meet first to determine the funding allocations for each of the appropriations subcommittees that fund the Federal Government. Once the funding allocations are determined, the various House and Senate appropriations subcommittees -- 13 in the House and 12 in the Senate -- will conduct hearings (likely starting in April) on the programs within their jurisdiction. The House considers their appropriations bills first while the Senate generally moves their bills a month or two after the House. Once each chamber passes an appropriations bill, they meet in a conference committee composed of House and Senate Members to reconcile any differences between the two bills. This is where the

appropriations numbers are finalized. Once the conference committee completes its work, both the House and Senate must pass the conference report and then the bill is sent to the President for his signature. The President may sign the bill into law or he may veto an appropriations bill.

Below is information that puts into context the funding increases that NIEA seeks in future appropriations and other spending bills.

The President's FY 2009 Native Education Budget Request and Past Funding Levels

Department of the Interior – BIA

The President's FY 2009 budget request for the Bureau of Indian Education (BIE) Elementary and Secondary programs, including education management, proposes a total of \$563.2 million, a decrease of approximately \$14.66 million. Included in this funding is \$25.5 million (a \$1.4 million increase) for the Improving Indian Education Initiative which was introduced in the FY 2008 Budget Request. The Department launched this Initiative to help BIE students meet AYP under the No Child Left Behind Act. For the past three school years, only 30% of BIA schools made AYP goals established by the state in which the school was located. Department of Education statistics indicate that student performance at BIA schools is lower than students at public schools. The Department of Interior is also dedicating \$5.2 million of education program funding to enhance education programs at lower performing schools. Education Management received an increase of \$2.9 million for a total of \$26.2 million.

Funding for post-secondary education is proposed to be cut by \$10.97 million to a level of \$100.8 million. Post-secondary decreases for BIE funding include scholarships (-\$5.9 million) and Tribal Technical Colleges (-\$5.9 million) "to allow BIE to focus on its core responsibility of running the BIE school system."

The education construction account request is \$115.4 million which is a \$27.6 million decrease. There is a \$24.3 million decrease for Replacement School Construction, \$10.5 million decrease in Facilities Improvement and Repair, and an increase of \$7.3 million for Replacement Facilities Construction.

Other decreases include Student Transportation (-\$984,000), Education Program Enhancements (-\$6.89 million), Early Childhood Development (-\$2.953 million) and total elimination of the Johnson O'Malley program. The budget proposes totally eliminating \$21.4 million for Johnson O'Malley grants, which includes JOM funding in the Tribal Government account and the education operations account. The FY 2009 budget request articulates the rationale used in 2006, 2007, and 2008 that the JOM programs are duplicative of grants available from the Department of Education from Title VII and Impact Aid. The budget justification states "The Johnson O'Malley grants do not address a focused goal for academic achievement and lack a means to measure and report on program impacts on student performance." In the past, Appropriators have rejected the rationale of the Administration and have restored JOM based upon the active lobbying by NIEA membership and others to protect this critical program. This year will be no different.

		2005 Enacted	2006 Enacted	2007 Enacted	2008 Enacted	2009 Requested	Change
Bureau of Indian Affairs							
Operation of Indian Programs (\$ in thousands)							
Education							
	Elementary and Secondary Programs – Forwarded funded	449,721	457,750	458,310	479,895	475,594	-4,301
	Elementary and Secondary Programs	76,218	75,887	60,390	60,839	61,329	490
	Johnson O'Malley (does not include funding for JOM in Tribal Government account)	16,500	16,500	12,000	13,782	0	13,782
	Post Secondary Programs	101,267	104,010	108,619	111,749	100,772	-10,977
	Education Management	10,566	8,783	18,593	23,347	26,285	2,938
	Total	654,272	662,930	657,912	689,612	663,980	-25,632
BIA Construction		263,373	206,787	204,956	142,935	115,376	-27,559

Excerpts from FY 2009 Interior Budget in Brief

Education – A net reduction of \$25.623 million is proposed for this activity. The Improving Indian Education initiative consists of increases of \$448,000 for Haskell and SIPI, and \$1,500 for education program management, and \$1,300,000 for the Native American Student Information System. Decreases are proposed for Johnson O'Malley Assistance Grants (-\$13.797 million)[this amount does not include JOM funding contained in the Tribal Government account], post-secondary scholarships (-\$5.906 million), Tribal Technical Colleges (-\$5.906 million), Student Transportation (-\$984,000), Education Program Enhancements (-\$6.891 million), and Early Childhood Development (-\$2.953 million). The budget reduces travel and relocation expenses (-\$670,000). Internal transfers reduce this activity by \$120,000. Fixed costs total \$10.089 million, of which \$8.347 million are budgeted and \$1.742 million are absorbed.

Education construction – A net decrease of \$27.559 million is proposed for this activity. The School Construction program includes a reduction of \$24.312 million for Replacement School Construction. The 2009 funding level will fully fund the replacement of Dennehotso Replacement School in Arizona. The budget proposes an increase of \$7.265 million for Replacement Facilities Construction. The request for Replacement Facilities Construction will fund the replacement of the Chinle Boarding School Kitchen-Dining Facility. The Education Construction account also includes a decrease for Facilities Improvement and Repair (-10.539 million). Employee Housing Repair is reduced by -\$350,000. The budget reduces travel and relocation expenses (-\$72,000). Fixed costs total \$569,000, of which \$449,000 are budgeted and \$120,000 are absorbed.

Tribal Government – A net reduction of \$10.160 million is proposed for this activity, which includes decreases for the Consolidated Tribal Government Program that supports Johnson O'Malley Assistance Grants (-\$995,000) and Self-Governance Compacts that support Welfare Assistance and Johnson O'Malley Assistance Grants programs (-\$14.118 million). An increase of \$213,000 is proposed for Tribal Government Program Oversight. The budget reduces travel and relocation expenses (-\$70,000). Internal transfers increase this activity by \$694,000. Fixed costs total \$4,975,000, of which \$4,116,000 are budgeted and \$859,000 are absorbed.

Johnson O'Malley Education Grants – The budget proposes to eliminate the \$21.4 million Johnson O'Malley grant program. These grants are distributed by the Tribes to address Indian student needs in local public schools. The grants duplicate similar funding made available by other Federal and State assistance programs. For example, in 2008, the Department of Education administered \$119.6 million in grants to Tribes, tribal organizations, and local education agencies for activities meeting the special educational and cultural needs of Indian students. In addition, about half of the Department of Education's \$1.2 billion in impact aid reaches districts with Indian students. The Johnson O'Malley grants do not address a focused goal for academic achievement and lack a means to measure and report on program impacts on student performance.

Department of Health and Human Services – Administration for Children and Families

The FY 2009 budget request for the Administration of Children and Families (ACF) is \$45.6 billion, a decrease of \$1.8 billion from FY 2008. The ACF budget includes a request for the Head Start Bureau to be funded at \$7 billion, an increase of \$149 million. The FY 2009 budget request proposes funding for the Administration for Native Americans (ANA), the agency that administers Native language grants including the programs under the Esther Martinez Act, at \$46 million. Prior to FY 2008, ANA had been flat funded over the last 5 years at \$44 million; but, last year Congress added \$2 million for Esther Martinez grants. The FY 2009 budget request continues the commitment to revitalizing and preserving our Native languages under Esther Martinez. The FY 2009 budget justification for ANA states, "The Budget includes \$2 million for the second year of funding for the preservation of Native American languages as authorized by the Esther Martinez Native American Language Preservation Act." To be included in the President's budget is a tremendous accomplishment and NIEA membership should congratulate itself for its hard work in educating the Administration and Capitol Hill on the need to preserve Native languages. Let's keep the momentum building on this vital effort!

Department of Health and Human Services	2005 Enacted	2006 Enacted	2007 Enacted	2008 Enacted	2009 Requested	Change
Administration for Children and Families						
Head Start	6,843,114	6,843,114	6,889,000	6,878,000	7,027,000	149,000
Native American Programs	44,000	44,000	44,000	46,000	46,000	0

Excerpts from the FY 2009 HHS Budget in Brief

Head Start - Provides comprehensive development services for low income children and families, emphasizing cognitive and language development, socio-emotional development, physical and mental health, and parent involvement to enable each child to develop and function at his or her highest potential. Currently, 2.9% of funds under the Head Start program are set aside for Indian Head Start programs.

Native American Programs - (Administration for Native Americans) – A total of \$46 million is requested for ANA to promote self-sufficiency through competitive grants for community-based social and economic development. Funds are used to develop and support stable and diversified local economies including business expansion, job creation, social service provision, Native language preservation, including the Esther Martinez program, and training in the use and control of natural resources. Of the \$46 million requested, \$2 million of this amount is allocated to Esther Martinez in the budget.

Department of Education - Native Education

For FY 2009, the President's FY 2009 budget requests \$59.2 billion in discretionary appropriations for the Department of Education, the same as the 2008 level, and an increase of \$17 billion, or 40%, in discretionary appropriations for the Department of Education since FY 2001. The President's FY 2009 budget request, among other things, proposes:

- an increase of \$406 million for Title I grants for local educational agencies for a total of \$14.3 billion;
- \$491.3 million, the same as the FY 2008 level, for Title I school improvement grants;
- an increase of \$607 million for a total of \$1 billion for Reading First State Grants;
- \$800 million for a reauthorized 21st Century Learning Opportunities Program that would replace 21st Century Community Learning Centers;
- \$300 million for Pell Grants for Kids (a new K-12 scholarship program that would allow low-income students attending schools in restructuring or that have high drop out rates to transfer to local private schools or out-of-district public schools);
- an increase of \$102.7 million for a total of \$200 million for the Teacher Incentive Fund;
- an increase of \$131.5 million for a total of \$175 million for programs aimed at improving math and science instruction in K-12 schools;

- an increase of \$337 million for a total of \$11.3 billion for Individuals with Disabilities Education Act Part B Grants for States;
- an increase of \$2.6 billion for a total of \$16.9 billion for Pell Grants;
- \$828.178 million for TRIO (same as the FY 2008 level);
- \$57 million for Upward Bound (same as the FY 2008 level);
- \$303.423 million for GEAR UP (same as the FY 2008 level).

The President's FY 2009 budget also proposes significant mandatory and discretionary savings that the Department claims are essential to meeting the President's goal of eliminating the deficit by 2012. Consistent with the President's goal, the FY 2009 budget proposes eliminating funding for 47 programs, including Alaska Native Education Equity in Title VII of NCLB, Education for Native Hawaiians in Title VII of NCLB, Strengthening Alaska Native and Native Hawaiian Serving Institutions, Exchanges with Historic Whaling and Trading Partners, Even Start, Tech Prep Education State Grants, Teacher Quality Enhancement, Federal Supplemental Educational Opportunity Grants, Strengthening Tribally Controlled Colleges and Universities, and Tribally Controlled Postsecondary Career and Technical Institutions.

The rationale for the elimination of Alaska Native Education Equity is that it is duplicative of Title I, Special Education State Grants, and Indian Education programs and that it provides for earmarks not subject to competitive process or other normal accountability requirements.

The rationale for the elimination of Education for Native Hawaiians is that it is duplicative of Title I, Special Education State Grants, and TRIO programs and that it provides for earmarks of noncompetitive grants for specific entities.

The rationale for the elimination of \$11.579 million for Strengthening Alaska Native and Native Hawaiian Serving Institutions under HEA III-A, section 317, is based on the assertion that these programs may be carried out under the HEA Title III Strengthening Institutions Program and the College Cost Reduction and Access Program. The President's budget proposes \$15 million for "additional funds for strengthening Alaska Native or Native Hawaiian-serving Institutions under HEA-IV-J."

The Administration did not provide a rationale for the elimination of \$23.158 million for Strengthening Tribally Controlled Colleges and Universities under HEA III-A, section 316, in its Budget in Brief for FY 2009. The President's budget does propose \$30 million for "additional funds for strengthening tribally controlled colleges and universities under HEA-IV-J." The President's budget also proposes \$5 million for "Strengthening Native American-serving nontribal institutions under HEA-IV-J."

The rationale for the elimination of \$7.546 million for Tribally Controlled Postsecondary Career and Technical Institutions is based on the assertion that program recipients are eligible for competitive grants under other Federal programs, including mandatory funding provided for the Strengthening Tribally Controlled Colleges and Universities program under the College Cost Reduction and Access Act.

Below is a table summarizing the appropriations for some of the major Native education programs in the Department of Education over the past few years compared to the President's FY 2009 request.

Department of Education	2005 Enacted	2006 Enacted	2007 Enacted	2008 Enacted	2009 Requested	Change
Education for Native Hawaiians	34,224	33,908	33,907	33,315	0	-33,315
Alaska Native Education Equity	34,224	33,908	33,907	33,315	0	-33,315
Indian Education	119,889	118,690	118,700	119,564	119,564	0
Grants to LEAs	95,165	95,331	95,331	96,613	96,613	0
Special Programs for Indian Children	19,595	19,399	19,399	19,060	19,060	0
National Activities	5,129	3,960	3,960	3,891	3,891	0
Strengthening Alaska Native & Native Hawaiian-serving institutions – HFA III-A, section 317	11,904	11,784	11,785	11,579	0	-11,579
Additional funds for strengthening Alaska Native & Native Hawaiian-serving institutions – HFA-IV-J			0	15,000	15,000	0
Strengthening tribally controlled colleges and universities – HFA III-A, section 316	23,808	23,570	23,570	23,158	0	-23,158
Additional funds for strengthening tribally controlled colleges and universities – HFA-IV-J			0	30,000	30,000	0
Tribally controlled postsecondary career and Technical institutions	7,440	7,366	7,366	7,546	0	-7,546
Strengthening Native American-serving nontribal institutions under HFA-IV-J			0	5,000	5,000	0
Impact Aid	1,243,662	1,228,453	1,228,453	1,240,717	1,240,718	1
Pell Grants	12,594,425	12,745,922	13,660,711	14,215,000	16,851,059	2,636,059
Adult Education	585,406	579,552	579,600	567,500	574,600	7,100
Total	14,774,871	14,901,843	15,816,689	16,421,258	18,955,505	2,534,247

Adapted Excerpts from the Department of Education Fiscal Year 2009 Budget Summary

Title VII Grants to Local Education Agencies - These funds provide financial support to elementary and secondary school programs that serve Indian students, including preschool children. Funds are awarded on a formula basis to local educational agencies, schools supported and operated by the Bureau of Indian Affairs and in some cases, and directly to Indian Tribes. In the President's FY 2009 budget request, Indian Education is level funded at \$119.564 million.

Title VII Special Programs for Indian Children - Funds are used for demonstration grants to improve Indian student achievement through early childhood education and college preparation programs, and for professional development grants for training Indians who are preparing for careers in teaching and school administration. The budget allocates \$19.060 million for Special Programs for Indians.

Title VII National Activities - Funds are used to expand efforts to improve research, evaluation, and data collection on the status and effectiveness of Indian education programs. The President's budget proposes \$3.891 million for these programs.

Education for Native Hawaiians - Funds provide supplemental education services to Native Hawaiians in such areas as family-based education, special education, gifted and talented education, higher education, curriculum development, teacher training and recruitment, and community-based learning. The previous funding level was \$33.315 million. This program is proposed for elimination in the President's FY 2009 budget request.

Alaska Native Education Equity - Funds provide supplemental education services to Alaska Natives in such areas as educational planning, curriculum development, teacher training, teacher recruitment, student enrichment, and home-based instruction for pre-school children. Grants also go to organizations specified in the law. The previous funding level was \$33.315 million. This program is proposed for elimination in the President's FY 2009 budget.

Impact Aid - Provides financial assistance to school districts for the costs of educating children when enrollments and the availability of revenues from local sources have been adversely affected by the presence of Federal activities. Children who reside on Federal or Indian lands generally constitute a financial burden on local school systems because these lands do not generate property taxes—a major revenue source for elementary and

secondary education in most communities. In addition, realignments of U.S. military forces at bases across the country often lead to influxes of children into school districts without producing the new revenues required to maintain an appropriate level of education. The President proposes funding Impact Aid at \$ 1.241 billion.

Adult Education - Funds support formula grants to States to help eliminate functional illiteracy among the Nation's adults, to assist adults in obtaining a high school diploma or its equivalent, and to promote family literacy. A portion of the funds is reserved for formula grants to States to provide English literacy and civics education for immigrants and other limited English proficient adults. The proposed fiscal year 2009 budget for Adult education is \$574.6 million, which is an increase of \$7.1 million over the FY 2008 enacted amount of \$567.5 million.

Pell Grants- Pell Grants are the single largest source of grant aid for postsecondary education. In 2008 and continuing into 2009, the Administration is proposing to make Pell Grants available year-round for certain students at two-and four-year institutions, enabling these students to accelerate their educations to obtain their degrees more quickly. To further encourage students to promptly complete their education, the Administration is also proposing to limit Pell Grant eligibility to the equivalent of 16 semesters; eliminate the Pell Grant award rule related to tuition sensitivity, which limits the amount of aid for needy students attending low-cost institutions; encourage families to save for college, by excluding amounts held by students and parents in Section 529 savings and investment accounts from the statutory need analysis methodology used to determine financial aid need; and ensure Federal Pell Grant funds are properly used by implementing a content-based approach, through the Internal Revenue Service, to match applicant data reported on the Free Application for Federal Student Aid with Federal tax data. The fiscal year 2009 request proposes increasing Pell Grants funding by \$2.6 billion for a total of \$16.9 billion for FY 2009.

Grants to Local Education Agencies - Commonly known as the "Title I" program, financial assistance under this account flows to school districts by formula, based in part on the number of school-aged children from low-income families. Within districts, local school officials target funds on school attendance areas with the greatest number or percentage of children from poor families. Local school districts develop and implement their own programs to meet the needs of disadvantaged students. By statute, 1% of these funds are set aside for the BIA and outlying areas. Under the FY 2009 request, funding would increase by \$406 million for a total of \$14.3 billion.

Rural Education - The Rural Education Achievement authority funds two separate programs that assist rural school districts in carrying out activities to help improve the quality of teaching and learning in their schools. The Small, Rural School Achievement program provides formula funds to rural school districts serving small numbers of students, and the Rural and Low-Income School program provides formula grants to States, which have the option of sub-allocating funds to high-poverty rural districts competitively or by formula. Each program receives one-half of the appropriation. The request would maintain support for small, often geographically isolated rural districts that face special challenges in implementing NCLB. The FY 2009 budget proposes \$171.854 million, which is the FY 2008 enacted amount.

Strengthening Alaska Native and Native Hawaiian-Serving Institutions - The purpose of this program is to improve and expand the capacity of institutions serving Alaska Native and Native Hawaiian students. Funds may be used to plan, develop, and implement activities that encourage faculty and curriculum development; administrative management; renovation and improvement of educational facilities; student services; and the purchase of library and other educational materials. The President's FY 2009 request proposes elimination of this program. The rationale for the elimination of \$11.579 million for Strengthening Alaska Native and Native Hawaiian Serving Institutions under HEA III-A, section 317, is based on the assertion that these programs may be carried out under the HEA Title III Strengthening Institutions Program and the College Cost Reduction and Access Program. The President's budget proposes \$15 million for "additional funds for strengthening Alaska Native or Native Hawaiian-serving Institutions under HEA-IV-J."

Strengthening Tribally Controlled Colleges and Universities - Tribal colleges and universities rely on a portion of the funds provided to address developmental needs, including faculty development, curriculum and student

services. The President's FY 2009 budget proposes elimination of this program. The Administration did not provide a rationale for the elimination of \$23.158 million for Strengthening Tribally Controlled Colleges and Universities under HEA III-A, section 316, in its Budget in Brief for FY 2009. The President's budget proposes \$30 million for "additional funds for strengthening tribally controlled colleges and universities under HEA-IV-J." The President's budget also proposes \$5 million for "Strengthening Native American-serving nontribal institutions under HEA-IV-J."

Tribally Controlled Postsecondary Career and Technical Institutions - This program provides grants for the operation and improvement of two tribally controlled postsecondary vocational institutions to ensure continued and expanding opportunities for Indian students: United Tribes Technical College in Bismarck, North Dakota, and Crownpoint Institute of Technology in Crownpoint, New Mexico. The fiscal year 2009 President's budget proposes elimination of this program. The rationale for the elimination of \$7.546 million for Tribally Controlled Postsecondary Career and Technical Institutions is based on the assertion that program recipients are eligible for competitive grants under other Federal programs, including mandatory funding provided for the Strengthening Tribally Controlled Colleges and Universities program under the College Cost Reduction and Access Act.

BRIEFING PAPER

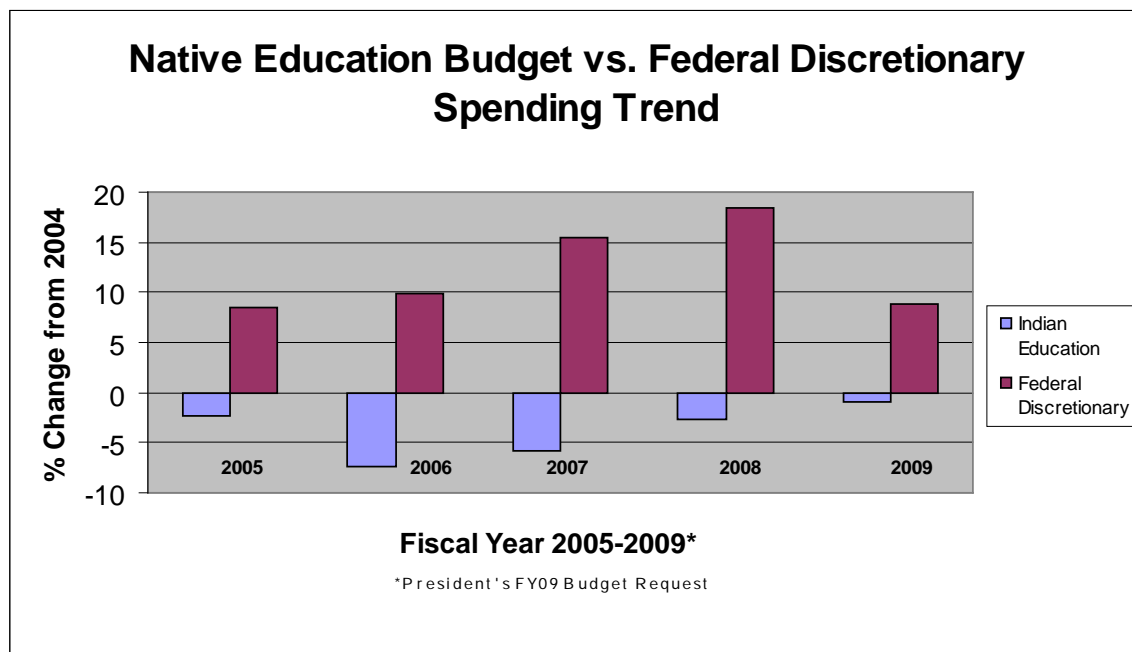
FEBRUARY 9, 2009



NIEA APPROPRIATIONS PRIORITIES FOR FY 2009 AND FY 2010

CORRECTING HISTORIC FUNDING INEQUITIES IN FEDERAL NATIVE EDUCATION PROGRAMS

Over the past 8 years, President Bush's budget requests proposed significant cuts in numerous Native education programs. The Congress, during the years of the Bush Administration, restored many of these cuts, but funding for these programs has been stagnant, translating into funding cuts for these programs due to inflation and other rising costs. If these cuts to Native education are not reversed, then Native children and Native communities will be further harmed as well as future generations, especially given the tragic reality that the standard of living in Native communities continues to be far lower than any other group in the United States. Native communities continue to experience the highest rates of poverty, unemployment, morbidity, and substandard housing, education, and health care. The graph below illustrates the stark cuts that Native education has suffered over the years in comparison to overall federal discretionary spending.



President Bush submitted his proposed budget for FY 2009 to the Congress on February 4, 2008. Please refer to NIEA's briefing paper on past budget trends for Native education. The Senate and the House held hearings on the President's FY 2009 budget during the last Congress (110th Congress) but were only able to pass the DOD and military construction appropriations bills before the end of the session in October 2008. Since then, much has changed with the election of President Obama and many new faces in the Congress. We are hopeful that the new Administration and the new 111th Congress will make funding for Native education a priority in future appropriations bills but it will take all of us working together to ensure that the new Administration and the new Congress understand and address the funding needs of Native students.

The new Congress convened on January 6, 2009, and is now working on passage of an economic recovery package, which contains, at this point, helpful funding for Native education, including school construction, modernization, and repair funding at the Bureau of Indian Affairs and at the Department of Education, funding for No Child Left Behind and for the Higher Education Act at the Department of Education, funding for the Head Start Act at the Administration for Children and Families at the Department of Health and Human Services, a State Stabilization Fund for educational purposes, and a tax credit school bonding program at the Department of the Treasury.

The new Congress also plans to enact an FY 2009 Omnibus appropriations bill within the next few weeks given that a Continuing Resolution to fund the Government under FY 2009 expires on March 6, 2009. This Omnibus appropriations bill will contain funding for all of the non-defense related agencies, including the Department of the Interior, Department of Education, and the Department of Health and Human Services, through September 30, 2009.

After the FY 2009 Omnibus passes, the Congress will start moving the FY 2010 appropriations bills (funding the Government from September 30, 2009 through September 30, 2010) and the Appropriations Committees plan to start holding hearings on the FY 2010 appropriations bills in early April of this year. President Obama's detailed FY 2010 budget request is expected within the next couple of months.

We need your help during NIEA's Legislative Summit and when you go back home in making sure that the economic stimulus package, the FY 2009 Omnibus appropriations bill, and the FY 2010 appropriations bills contain NIEA's appropriations priorities. The time is NOW to advocate on behalf of Native education funding with the Obama Administration and with Members of Congress.

NIEA'S APPROPRIATIONS PRIORITIES FOR FY 2009 AND FOR FY 2010

5% Increase for Title VII, Native Education, No Child Left Behind Act (NCLB) - U.S. Dept. of Education - Labor, HHS, Education Appropriations Bill

- In consideration of the economic turmoil and constrained domestic budget, NIEA requests a moderate 5% increase for FY 2009 over the FY 2008 enacted level of \$186.2 million for a total of \$195.5 million for NCLB Title VII funding. The FY 2007 enacted level was \$186.5 million, the FY 2006 enacted level was \$186.5 million, and the FY 2005 enacted level was \$188.3 million. President Bush's FY 2009 budget proposes reducing Title VII by \$66.63 million from the FY 2008 enacted level by eliminating funding in Title VII for Education for Native Hawaiians (\$33.315 million) and for Alaska Native Education Equity (\$33.315 million). President Bush's FY 2009 budget requests a total of \$119.564 million for Title VII with the purpose of funding Indian education. NIEA urges the Congress to restore the funding for Education for Native Hawaiians and Alaska Native Education Equity and to provide the overall modest 5% increase it proposes for Title VII for FY 2009. For FY 2010, NIEA requests a 5% increase over the FY 2009 enacted level.

- NIEA requests that \$2 million of the increase it seeks go toward national research activities (Title VII, Part A, Subpart 3) that would focus on analyzing effective approaches in teaching Native children and on the educational status and needs of Native students. NIEA requests that another portion of the increase it seeks go toward funding Tribal Education Departments which are authorized under NCLB but have never been funded as well as to teacher in-service and professional development programs contained in the Special Programs section of NCLB.
- Title VII is severely underfunded. Title VII provides critical support for culturally based education approaches for Native students and addresses the unique educational and cultural needs of Native students. It is well-documented that Native students thrive academically in environments that support their cultural identities while introducing different ideas. Title VII has produced many success stories but increased funding is needed in this area to bridge the achievement gap for Native students.

5% Increase for Impact Aid, Title VIII, NCLB - U.S. Dept. of Education - Labor, HHS, Education Appropriations Bill

- NIEA requests a 5% increase for impact aid for FY 2009 over FY 2008 enacted levels and a 5% increase for FY 2010 from the FY 2009 enacted level. President Bush's FY 2009 budget request proposes funding impact aid at \$1.241 billion with a \$1 million increase over the FY 2008 level. This slight increase does not keep pace with inflation. The budget proposes allocating \$17.509 billion to facilities construction, which is the same as the FY 2008 enacted level and a \$300 million decrease from FY 2007. The funding proposed for FY 2009 does not meet the tremendous backlog to build new facilities. Many public schools on reservations are crumbling and should be replaced. NIEA urges that the 5% increase be used for facilities construction so that some progress can be made in meeting the mushrooming public school construction needs on reservations. NIEA strongly supports the proposed funding for impact aid facilities construction in the American Recovery and Reinvestment Act in H.R. 1 and S. 1 under the new authorization for school construction, modernization, and repair.

\$10 Million Increase over the FY 2008 Enacted Level for Native Language Immersion and Restoration grants under the Esther Martinez Native Languages Act - Admin. for Native Americans (ANA), Admin. for Children and Families, U.S. Health and Human Services - Labor, HHS, Education Appropriations Bill

- NIEA requests a \$10 million increase to \$56 million for FY 2009 to ANA to support Native language immersion and restoration programs. Previously, ANA received a \$2 million increase in the FY 2008 Omnibus for Native language programs under the Esther Martinez Act. Prior to FY 2008, funding for ANA had been flat-lined at \$44 million with less than \$500,000 going toward language immersion programs due to other grant programs that ANA administers. NIEA is very appreciative of Congress's support for this crucial program. For FY 2009, President Bush's budget reflected the Administration's commitment to preserving Native languages in its request for \$46 million for ANA with a \$2 million allocation for Esther Martinez language programs. NIEA requests a \$10 million increase to ANA for FY 2009 for Native language immersion and restoration programs under the Esther Martinez Act and another \$10 million for FY 2010. President Obama's priorities for Native communities include preservation of Native language programs and specifically support for the Esther Martinez Act.

- The Esther Martinez Act preserves and fosters fluency in Native American languages through grants to tribes, tribal organizations, schools, and universities to develop and bolster Native language immersion and revitalization programs. Research shows that Native children who participate in language immersion and revitalization programs perform better academically than their Native peers who do not participate. Native languages are not spoken anywhere else in the world; and, if they are not preserved, then they will disappear forever. In Native communities across the country, Native languages are in rapid decline. It is a race against the clock to save Native languages.

\$263.4 Million for Indian School Construction and Repair - Bureau of Indian Affairs (BIA), Dept. of Interior (DOI) - DOI Appropriations Bill

- NIEA requests a \$120.47 million increase from the FY 2008 enacted level of \$142.935 million for a total of \$263.4 million in FY 2009 to the BIA for Indian school construction and repair. NIEA requests this same amount of \$263.4 million for FY 2010 and urges the Obama Administration to make it part of the recurring base funding for BIE construction. Since FY 2005, the funding levels have dramatically decreased for this critical program. NIEA seeks \$263.4 million because this was the funding level in FY 2005, which was instrumental in reducing the construction and repair backlog. BIA's budget has historically been inadequate to meet the needs of Native Americans and, consequently, Indian school needs have multiplied. For FY 2007, the funding level was \$204.956 million; and, for FY 2006, the funding level was \$206.787 million. The Administration has sought to justify the decrease over the past few years by stating that it wants to finish ongoing projects. The amounts over the past few years have failed to fund tribes at the rate of inflation, thus exacerbating the hardships faced by Native American students. Further, the funding that has been allocated over the past few years will not keep pace with the tremendous backlog of Indian schools and facilities in need of replacement or repair. For FY 2009, President Bush's budget would only allow for the replacement of one school and the replacement of structures at another school. There are currently 81 BIE schools that are in need of major repairs or replacements. At the funding level recommended in the President's budget, the backlog for new BIE schools will not be reduced at all. NIEA strongly supports BIA school construction funding proposed in H.R. 1 and S. 1, the American Recovery and Reinvestment Act, in the BIA account and in the new school construction and modernization authorization in the bills.
- The Federal government's responsibility for the education of Indian people is in response to specific treaty rights; and anything less than full funding of Native education programs signifies increased negligence of its trust responsibility. Substantial progress has been made in replacing Indian schools, but, as noted by the House Interior Appropriations Subcommittee in its Committee Report accompanying the FY 2006 Interior appropriations bill, "much remains to be done."

\$ 24 Million for the Johnson O'Malley Program (JOM) - BIA, DOI - DOI Appropriations Bill

- \$24 million for JOM - As with the FY 2007 and 2008 budget requests, President Bush's FY 2009 budget request proposes elimination of \$21.4 million in funding for JOM (-\$13.782 million from the Education Operations account, -\$6.689 million from the Self-Governance Tribal Government account; and -\$995,000 from the Consolidated Tribal Government account). The FY 2008 and FY 2007 enacted levels only partially restored JOM at \$21.4 million. The FY 2006 enacted level was \$24 million. In the FY 2006 House Interior Appropriations Subcommittee Report accompanying the FY 2006 Interior appropriations bill, the Committee rejected the Administration's FY 2006 budget request to cut JOM by over 50%, stating that the Administration's justification for the reductions -- that there are other programs in the government that

could provide these funds -- "is completely unfounded." For FY 2009, NIEA urges the Congress to fully restore JOM to the FY 2006 enacted level of \$24 million. For FY 2010, NIEA urges that the Administration and the Congress provide an increase in funding for JOM at a level that accounts for actual student population needs and inflation.

- JOM grants are the cornerstone for many Indian communities in meeting the unique and specialized educational needs of Native students. Many Indian children live in rural or remote areas with high rates of poverty and unemployment. JOM helps to level the field by providing Indian students with programs that help them stay in school and attain academic success.
- Even though JOM funding is extremely limited due to BIA budget constraints, it is being used across the country in a variety of basic as well as innovative ways to assist Indian students to achieve academically. JOM funding is used to provide vital programs designed to build self-esteem, confidence, and cultural awareness so that Indian students can grow up to become productive citizens within their communities. For example, JOM funds help students achieve and succeed by providing such services as: eyeglasses and contacts, resume counseling, college counseling, culturally based tutoring, summer school, scholastic testing fees, school supplies, transition programs, musical instruments, Native youth leadership programs, student incentive programs, financial aid counseling, fees for athletic equipment and activities, caps and gowns, art and writing competitions, etc. Other programs administered by the federal government, such as NCLB funding at the Dept. of Education, do not allow funding for these types of activities.
- Even with the funding requested, \$24 million will not keep pace with true needs. In 1995, a freeze was imposed on JOM funding through DOI, limiting funds to a tribe based upon its population count in 1995. The freeze prohibits additional tribes from receiving JOM funding and does not recognize increased costs due to inflation and accounting for population growth. NIEA urges that the JOM funding freeze be lifted and that other formula-driven and head count-based grants be analyzed to ensure that tribes are receiving funding for their student populations at a level that will provide access to a high quality education.

\$5 Million for Tribal Education Departments (TED's) - BIA, DOI - DOI Appropriations Bill

- TED's are authorized for funding at the BIA (as well as the Dept. of Education under NCLB) but have never been funded. TEDs develop educational policies and systems for Indian communities that are attuned to the cultural and specialized academic needs of Indian students. TEDs partner with the federal government and state governments and schools to improve education for tribal students. \$5 million for FY 2009 is a very modest request that would yield positive benefits for Indian students and provide tribes with increased input over the education of their children. For FY 2010, NIEA requests an increase to \$10 million for TED's.

BRIEFING PAPER

FEBRUARY 9, 2009



AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

The goal of the American Recovery and Reinvestment Act of 2009 is to stimulate the economy, protect and create jobs, and develop public works and infrastructure projects. For projects to be funded under the bill, they must be “shovel ready” and must be completed within 24 months. Much of this funding is flowing directly to the states, state agencies, and federal agencies at the regional level, so it will be critical to meet with these offices back home as well as with your federal representatives in D.C.

The House passed its version of the American Recovery and Reinvestment Act of 2009, H.R. 1, on January 27. The bill is approximately 650 pages. At press time, the Senate is debating its version of the legislation, S. 1, on the floor this week (Feb. 3) and is working to pass it by the end of this week. Once the Senate passes its bill, then both chambers will convene a conference committee comprised of Members of the House and the Senate Appropriations Committees to reconcile differing provisions between the two versions of the bill (likely the week of NIEA’s Leg Summit). House and Senate leadership are working toward final passage of the legislation prior to the President’s Day recess during the third week of February and will thereafter forward the legislation to President Obama for his signature. If final passage of the bill takes longer than anticipated, then the Congress will cancel the recess and continue with its work on the bill until final passage.

As you can see, there is not much time left before final passage of the bill, so the time is NOW to advocate on the educational funding needs that fit within the scope of the bill. We need your help to ensure that Native communities receive adequate funding as the bill goes to conference.

Below are specific tribal provisions and general education provisions in H.R. 1 and S. 1.

H.R. 1

(bill as passed by the House of Representatives on January 27th)

Division A – Appropriations Provisions

Title I – Use of Funds

Funds appropriated under the Act shall remain available for obligation until September 30, 2010 unless expressly provided otherwise in the Act.

Title II - Agriculture, Nutrition, and Rural Development

Rural Development Programs - \$5.838 billion of which \$1.102 billion is for rural community facilities direct loans.

Title VIII – Interior and the Environment

BIA - \$500 million for priority repair and replacement of schools, detention centers, roads, bridges, employee housing, and critical deferred maintenance projects provided that not less than \$250 million shall be used for new and replacement schools and detention centers.

Title IX – Labor, Health and Human Services, and Education

Department of Labor Employment and Training Administration - \$4 billion for training and employment services with \$500 million for grants to States for adult employment and training activities; \$1.2 billion for grants to States for youth activities, including summer jobs for youth; \$1 billion for grants to States for dislocated worker employment and training activities; \$500 million for the dislocated workers assistance national reserve; \$50 million for YouthBuild activities; and \$750 million for a program for competitive grants for worker training and placement in high growth and emerging industry sector.

HHS Administration for Children and Families Payments to States for the Child Care and Development Block Grant - \$2 billion for the Child Care and Development Block Grant.

HHS Administration for Children and Families Services Programs - \$3.2 billion with \$1 billion for carrying out activities under the Head Start Act; \$1.1 billion for expansion of Early Head Start programs; and \$1 billion for carrying out activities under the Community Services Block Grant Act.

Department of Education - \$13 billion for carrying out Title I, Education for the Disadvantaged, of the Elementary and Secondary Education Act with \$5.5 billion for targeted grants under section 1125 of the ESEA.

Department of Education - \$100 million for Impact Aid to carry out section 8007 of Title VIII of the Elementary and Secondary Education Act of 1965.

Department of Education - \$1.066 billion for School Improvement Programs under Title II of the Elementary and Secondary Education Act of 1965 and under the McKinney-Vento Homeless Assistance Act

Department of Education - \$225 million for Innovation and Improvement to carry out title V of the Elementary and Secondary Education Act of 1965.

Department of Education - \$13 billion for Special Education under the Individuals with Disabilities Education Act.

Department of Education - \$700 million for grants to States to carry out the Vocational Rehabilitation Services Program under Title VII of the Rehabilitation Act of 1973.

Department of Education - \$16.126 billion for Student Financial Assistance under title IV of the Higher Education Act of 1965.

Department of Education - \$50 million for Student Aid Administration under title IV of the Higher Education Act of 1965.

Department of Education - \$100 million for Higher Education under title II of the Higher Education Act.

Department of Education 21st Century Green High-Performing Public School Facilities - \$14 billion for the purpose of modernizing, renovating, or repairing public school facilities based on their need for such improvements, to be safe, healthy, high-performing, and up-to-date technologically under a new program called 21st Century Green High-Performing Public School Facilities. Of the \$14 billion, 1% shall be reserved for U.S. territories and for payments to the Secretary of the Interior to provide assistance to Bureau-funded schools. The remaining amounts shall be allocated state-by-state in proportion to the amount received by the local education agencies located in that state.

Department of Education Higher Education Modernization, Renovation, and Repair - \$6 billion for the purpose of modernizing, renovating, and repairing institution of higher education facilities that are primarily used for instruction, research, or student housing. The funds shall be allocated to State higher education agencies based upon student population.

Department of Education Pell Grants - \$2.733 billion for Pell Grants.

Title XIII – State Fiscal Stabilization Fund

\$79 billion for a State Fiscal Stabilization Fund to be administered over a 2-year period by the Department of Education with the funding to be allocated to States based upon population with preference given for populations of individuals aged 5 through 24. 61% of funds shall be used for the support of elementary, secondary, and postsecondary education and the remaining 39% may be used for public safety and other governmental services, which may include assistance for elementary and secondary education and public institutions of higher education. Local Educational Agencies that receive funds under the State Fiscal Stabilization Fund may use these funds for any activity authorized under the Elementary and Secondary Education Act of 1965. A public institution of higher education that receives funds under the State Fiscal Stabilization Fund shall use the funds for education and general expenditures, and in such a way as to mitigate the need to raise tuition and fees for in-State students, and is prohibited from using the funds to increase its endowment or to construct, repair, or renovate. The Department of Education may reserve up to \$325 million each year to establish an Innovation Fund to make awards to States that have made significant gains in closing the achievement gap.

Division B – Other Provisions

Title I – Tax Provisions

Tax credit bonds for schools - for the construction, rehabilitation, or repair of public school facilities or for the acquisition of land on which such a facility is to be constructed with part of the proceeds of such issue. These bonds can be issued by a State or local government within the jurisdiction of which such school is located. There is also a bonding allocation of \$200 million per year for 2 years for the Secretary of the Interior for construction, rehabilitation, and repair of schools funded by the BIE with tribes being qualified issuers of the bonds.

S. 1

(as reported out of the Senate Appropriations and Finance Committees on Jan. 27th)

General Provisions

Title I – Agriculture, Rural Development, Food and Drug Administration

Agriculture Rural Community Facilities Program Account - \$127 million for direct loans, loan guarantees, and grants for rural community facilities programs.

Agriculture Distance Learning, Telemedicine, and Broadband Program Account (P. 7) - \$200 million for direct loans and grants for distance learning and telemedicine services in rural areas.

Title VII – Interior, Environment, Related Agencies

DOI BIA - \$40 million for operation of Indian programs of which \$20 million shall be for the Housing Improvement Program, \$522 million for construction, and \$10 million for the Indian Guaranteed Loan Program Account.

Report language accompanying S. 33 that provides guidance on how the funds should be spent by the agency:

BIA Operation of Indian Programs –

The Committee has provided \$40 million for operation of Indian programs and recommends that the funds be allocated as follows: \$18 million for the workforce construction training program, which will be focused in areas with the highest unemployment; \$2 million for the workforce training and development program, which is a national program focused on training for certified plumbers and pipefitters; and \$20 million for the housing improvement program. As it utilizes the funding for housing improvement, the Bureau is directed to work closely with the Department of Energy to ensure that funding from the Weatherization Program is incorporated to the maximum extent possible.

Construction – The Committee has provided \$522 million for construction and recommends that the funds be allocated as follows: \$115 million for major facilities improvement and repair projects prioritized by the Bureau; \$132 million for full-replacement school projects; \$35 million for minor school facilities improvements and employee housing repair; \$25 million for detention center improvements, repairs, and maintenance; \$40 million for new construction, repair, and deferred maintenance projects at various irrigation projects and systems; \$25 million for dam improvements, repair and maintenance at those facilities identified by the Bureau as presenting high or significant hazards; and \$150 million for road and bridge maintenance on Bureau-owned roads. As the Bureau prepares the spending plans required by section 701 of this title, the Committee is mindful that flexibility will be needed in order to achieve the goals of maximum job creation and most effective use of resources. As such, the Committee expects modifications to these allocations after full and timely consultation.

Title VIII – Labor, HHS, Education

Labor Employment and Training Administration: \$3.25 billion for Training and Employment Services with \$500 million for adult employment and training activities, \$1.2 billion for grants to states for youth activities including summer employment for youth, \$1 billion for grants to states for dislocated worker employment and training activities, \$200 million for national emergency grants, \$250 million for dislocated worker national reserve for a program of competitive grants for worker training in high growth and emerging industry sections and assistance with priority for careers in energy efficiency and renewable energy, and \$100 million for YouthBuild activities to learn green construction skills.

HHS Administration for Children and Families: \$2 billion for Payments to States for the Child Care and Development Block Grant to supplement state funds for child care assistance for low-income families, \$400 million for Social Services Block Grant, \$1 billion for Children and Families Services Programs, \$1 billion for Head Start, \$1.1 billion for expansion of Early Head Start programs, \$200 million for Community Services Block Grant Act for community action agencies to provide critical services for low-income communities and families, such as housing and mortgage counseling, jobs skills training food pantry assistance, help for small businesses and case management services, and \$100 million for Aging Services Programs for nutrition services.

Dept. of Education:

Education for the Disadvantaged - \$13 billion for Title I of ESEA of which \$5.5 billion shall be for targeted grants under section 1125, \$5.5 billion shall be for education finance incentive grants under section 1125A, \$2 billion for school improvement grants under section 1125A enabling States to provide assistance to schools not making AYP for at least 2 years and States are encouraged to use 40% of their allocations for middle and high schools. LEAs must spend at least 15% of their total allocations for early childhood education.

School Improvement Programs - \$17.07 billion for carrying out part D of Title II of ESEA and subtitle B of Title VII of the McKinney-Vento Homeless Assistance Act, and section 804 of this Act (see below regarding new authorization for school construction) with \$1 billion for educational technology State grants (50% must be used for competitive grants and 50% to LEA's through formula under Title I, part A), \$70 million for education of homeless children and youth, and \$16 billion for a new program to renovate, repair and build public schools, including early learning facilities with the purpose of this program being to reduce the staggering backlog of infrastructure improvements that are needed in the Nation's schools in ways that will promote greater energy efficiency and provide students with greater access to information technology.

Special Education - \$13.5 billion for IDEA with \$13 billion for services to children with disabilities, ages 3-21 with at least 15% spent on early childhood education and \$500 million for State Grants for Infants and Families.

Student Financial Assistance - \$13.869 billion for Student Financial Assistance with an increase in the maximum Pell Grant by \$281 for award year 2009-2010 and by \$400 for award year 2010-2011.

Higher Education - \$100 million for Teacher Quality Partnership Grants with the purpose to improve the quality of new teachers and to recruit highly qualified individuals, including minorities and individuals from other occupations, into the teaching force.

Higher Education Facilities - \$3.5 billion for facility modernization and instructional equipment for institutions of higher education under section 803 of the Act (see below). The funds would be distributed to States by formula in proportion to the State's share of full time equivalent undergraduate students. States must give priority to the needs of institutions that serve high numbers of minority students and those that have been impacted by a major disaster and to projects that improve energy efficiency. Community colleges should receive a proportionate share of funding from the States.

New Authorization for Higher Education Modernization, Renovation, and Repair at Dept. of Education (Section 803 – P. 157) – Grants shall be for the purpose of modernizing, renovating, a repairing institution of higher education facilities that are primarily for instruction and research. Funds may also be used for leasing, purchasing or upgrading equipment, designed to strengthen and support academic and technical skill achievement. Priority is given to tribal colleges, historically black colleges, and other minority higher education institutions as well as institutions impacted by a national disaster and those institutions where the projects create energy efficiency.

New Authorization for School Renovation, Repair, and Construction at Dept. of Education (Section 804 – P. 168) - \$16 billion for a new program to renovate, repair and build public schools, including early learning facilities with the purpose of this program being to reduce the staggering backlog of infrastructure improvements that are needed in the Nation's schools in ways that will promote greater energy efficiency and provide students with greater access to information technology. The funding will be allocated to States on the basis of their share of the fiscal year 2008 title I allocations, after a 1% reservation of funds for outlying areas and Bureau of Indian Affairs schools, and a 2% reservation for LEA's that educate federally connected students or have federally owned land. Funding that is allocated to States will be allocated to LEA's partly by formula and partly by competition. The 100 LEAs in the Nation with the poorest children will be allocated their funding by formula, on the basis of the LEA's share of its State's title I allocation. These districts must give a priority to funding "green" projects. The rest of the funding will be awarded to LEAs on a competitive basis by the States, using criteria including: percentage of poor children; need for renovation, repair, and construction; plans to use "green" practices; capability to implement projects expeditiously; and the LEA's fiscal capacity. Permissible uses of funds include: renovating, repairing, and constructing public school buildings, including early learning facilities; repairing, replacing, or installing roofs, window, heating, ventilation, or air conditioning systems; meeting fire and safety codes; reducing energy consumption; complying with the American with Disabilities Act, improving environmental conditions of school sites, including removal of asbestos and reducing exposure to mold, mildew, and lead-based paint; upgrading or installing educational technology infrastructure; and broadening the use of school buildings to the community.

Tax Provisions:

Treasury Qualified Indian School Construction Bonds - \$400 million for financing for tax credit bonds to fund the construction of schools.

BRIEFING PAPER

FEBRUARY 9, 2009



NATIONAL INDIAN EDUCATION ASSOCIATION AMENDMENTS TO THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 IN THE SENATE

The goal of the American Recovery and Reinvestment Act of 2009 is to stimulate the economy, protect and create jobs, and develop public works and infrastructure projects. For projects to be funded under the bill, they must be “shovel ready” and must be completed within 24 months. Much of this funding is flowing directly to the states, state agencies, and federal agencies at the regional level, however NIEA has drafted amendments to education provisions where funding should go directly to the Bureau of Indian Education, or school districts with high Native populations. Below are NIEA’s amendments to the American Recovery and Reinvestment Act of 2009.

DEPARTMENT OF HHS, CHILDREN AND FAMILIES SERVICES PROGRAMS , HEAD START PROGRAMS

The Head Start Act provides that the American Indian Alaska Native (AIAN) Head Start programs would receive, after an initial period of expansion funds, 3% of all expansion funds. The economic stimulus legislation should specifically provide that AIAN programs will receive an allocation of 3% of the Head Start and 3% of the Early Head Start economic stimulus funding to assure that the AIAN Head Start and Early Head Start programs receive their proportionate share of economic stimulus funding.

NIEA recommends the following language: “Provided further that the American Indian Alaska Native Programs shall receive 3% of Head Start and Early Head Start program funding as required in Section 640 the Head Start Act.”

DEPARTMENT OF EDUCATION, TITLE I PROGRAMS

This provision provides Title I funds for targeted grants to local educational agencies, education finance incentive grants, and school improvement plans. Title I, Section 1121 of the Elementary and Secondary Education Act (also known as the No Child Left Behind Act) provides a total of 1% to provide assistance to the BIE schools and the outlying areas. NIEA wants to ensure that BIE schools receive Title I funding from the economic stimulus, given that only 30% of the BIE schools are making adequate yearly progress. Unlike the outlying areas, the federal government has an obligation to assure an education to Indian children. NIEA is requesting the language be amended to insure the BIE schools receive a minimum of .72% of the total funding, which is equal to the amount of Title I funding provided to BIE schools last year.

NIEA recommends the following language: “Provided further that Secretary of Education shall reserve a minimum of .72% to provide assistance to the Secretary of the Interior to meet the special education needs of Indian children on reservations served by elementary or secondary schools operated or supported by the Department of the Interior, as provided for in Sec. 1121 of the ESEA.”

21ST CENTURY GREEN HIGH PERFORMING SCHOOLS, GRANTS FOR SCHOOL RENOVATION, REPAIR AND CONSTRUCTION

This section currently provides for a 1% allocation to be shared between BIE schools and the outlying territories for school renovation, repairs, and construction. NIEA is requesting the language be amended to insure the BIE schools receive a minimum of .72% of the total funding which is proportionate to the amount of Title I funding provided to BIE schools when compared to the level of Title I funding provided to the outlying area schools. Additionally, NIEA is requesting that the Department of Interior be consulted when the funding is allocated.

STATE FISCAL STABILIZATION, DEPARTMENT OF EDUCATION

The States Fiscal Stabilization Fund allocates one-half of 1% to the outlying territories for elementary, secondary, and higher education, and as applicable, early childhood education. There is no allocation that provides funding for tribes, many of whom operate tribal elementary and secondary schools, tribal colleges, early childhood education programs, and tribal education departments. NIEA is recommending that tribes also be allocated a percentage not less than what is afforded the outlying territories given the trust responsibility of the United States government to ensure educational quality and access for Indian students. Under the Incentive Grants, NIEA is requesting the following language be added, “, including Indian students,”, after “all subgroups of students identified in 1111(b)(2)” and before “of ESEA”. Native students are not specified in section 1111(b)(2), nor can they be considered to be covered by any one particular categories listed in section 1111(b)(2) given their unique and distinct political status.

NIEA is requesting that incentive grants be targeted to not just high need schools and local educational agencies, but also schools and districts where schools have not made adequate yearly progress the last two years. Many schools in Indian Country have not made AYP and would benefit from additional funding to increase academic achievement and narrowing the achievement gap. For that reason, NIEA is requesting the addition of the following language: “schools that have not made adequate yearly progress in the last two years,” after “high-need schools” and before “and local educational agencies; and” in Section 1405 (c)(4).

ACHIEVING EQUITY IN TEACHER DISTRIBUTION

Many Native communities are located in rural areas where the number of highly qualified teachers is in short supply. Research indicates the negative long term effect on student achievement when taught by teachers who are not highly qualified. NIEA is suggesting the addition of the following language “ low performing” after “high poverty” and before “schools” in Section 1405, (d)(2) to target those schools who are most in need of highly qualified teachers.

BRIEFING PAPER

FEBRUARY 9, 2009



NATIONAL INDIAN EDUCATION ASSOCIATION AMENDMENTS TO THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 IN THE HOUSE OF REPRESENTATIVES

The goal of the American Recovery and Reinvestment Act of 2009 is to stimulate the economy, protect and create jobs, and develop public works and infrastructure projects. For projects to be funded under the bill, they must be "shovel ready" and must be completed within 24 months. Much of this funding is flowing directly to the states, state agencies, and federal agencies at the regional level, however NIEA has drafted amendments to education provisions where funding should go directly to the Bureau of Indian Education, or school districts with high Native populations. Below are NIEA's amendments to H.R. 1, the American Recovery and Reinvestment Act of 2009.

DEPARTMENT OF HHS, CHILDREN AND FAMILIES SERVICES PROGRAMS, HEAD START PROGRAMS

The Head Start Act provides that the American Indian Alaska Native (AIAN) Head Start programs would receive, after an initial period of expansion funds, 3% of all expansion funds. The economic stimulus legislation should specifically provide that AIAN programs will receive an allocation of 3% of the Head Start and 3% of the Early Head Start economic stimulus funding to assure that the AIAN Head Start and Early Head Start programs receive their proportionate share of economic stimulus funding.

NIEA recommends the following language: "Provided further that the American Indian Alaska Native Programs shall receive 3% of Head Start and Early Head Start program funding as required in Section 640 the Head Start Act."

DEPARTMENT OF EDUCATION, TITLE I PROGRAMS

This provision provides Title I funds for targeted grants to local educational agencies, education finance incentive grants, and school improvement plans. Title I, Section 1121 of the Elementary and Secondary Education Act (also known as the No Child Left Behind Act) provides a total of 1% to provide assistance to the BIE schools and the outlying areas. NIEA wants to ensure that BIE schools receive Title I funding from the economic stimulus, given that only 30% of the BIE schools are making adequate yearly progress. Unlike the outlying areas, the federal government has an obligation to assure an education to Indian children. NIEA is requesting the language be amended to insure the BIE schools receive a minimum of .72% of the total funding, which is equal to the amount of Title I funding provided to BIE schools last year.

NIEA recommends the following language: “Provided further that Secretary of Education shall reserve a minimum of .72% to provide assistance to the Secretary of the Interior to meet the special education needs of Indian children on reservations served by elementary or secondary schools operated or supported by the Department of the Interior, as provided for in Sec. 1121 of the ESEA.”

21ST CENTURY GREEN HIGH PERFORMING SCHOOLS, GRANTS FOR SCHOOL RENOVATION, REPAIR AND CONSTRUCTION

This section currently provides for a 1% allocation to be shared between BIE schools and the outlying territories for school renovation, repairs, and construction. NIEA is requesting the language be amended to insure the BIE schools receive a minimum of .72% of the total funding which is proportionate to the amount of Title I funding provided to BIE schools when compared to the level of Title I funding provided to the outlying area schools. Additionally, NIEA is requesting that the Department of Interior be consulted when the funding is allocated.

STATE FISCAL STABILIZATION, DEPARTMENT OF EDUCATION

The States Fiscal Stabilization Fund allocates one-half of 1% to the outlying territories for elementary, secondary, and higher education, and as applicable, early childhood education. There is no allocation that provides funding for tribes, many of whom operate tribal elementary and secondary schools, tribal colleges, early childhood education programs, and tribal education departments. NIEA is recommending that tribes also be allocated a percentage not less than what is afforded the outlying territories given the trust responsibility of the United States government to ensure educational quality and access for Indian students. NIEA is requesting that incentive grants be targeted to not just high need schools and local educational agencies, but also schools and districts where schools have not made adequate yearly progress the last two years. Many schools in Indian Country have not made AYP and would benefit from additional funding to increase academic achievement and narrowing the achievement gap. For that reason, NIEA is requesting the addition of the following language: “schools that have not made adequate yearly progress in the last two years,” after “high-need schools” and before “and local educational agencies” when describing the priorities.

ACHIEVING EQUITY IN TEACHER DISTRIBUTION

Many Native communities are located in rural areas where the number of highly qualified teachers is in short supply. Research indicates the negative long term effect on student achievement when taught by teachers who are not highly qualified. NIEA is suggesting the addition of language that prioritizes schools that are most in need of highly qualified teachers.

BRIEFING PAPER

FEBRUARY 9, 2009



NATIONAL NATIVE EDUCATION RECOMMENDATIONS FOR THE 111TH CONGRESS

The National Indian Education Association (NIEA), established in 1970, is a membership-based organization, with a mission to “support traditional Native cultures and values, to enable Native learners to become contributing members of their communities, to promote Native control of educational institutions, and to improve educational opportunities and resources for American Indians, Alaska Natives, and Native Hawaiians throughout the United States.”

Many aspects of the education of American Indians, Alaska Natives, and Native Hawaiians are deeply rooted in federal law and policy. Education is an essential component of tribal sovereignty, the federal trust responsibility, and Native self-determination principles recognized under the U.S. Constitution, treaties, statutes, executive orders, and court decisions. The new Administration, and the 111th Congress must embrace this foundation and build on it to effectuate positive changes for the future of America's indigenous tribes, communities, and children.

The education of Native Americans lags far behind that of the rest of the country. Nearly 90 percent of the 620,000 Native American students attend public schools with their non-Native peers. Approximately 7 percent of Native students attend schools administered by the Department of Interior, Bureau of Indian Education (BIE), a system of 184 schools for educating American Indian students spread over 23 states. The federally supported Indian education system includes 48,000 students, 29 tribal colleges, universities and post-secondary schools.

American Indians have the lowest level of educational attainment of any racial or ethnic group in the United States. The national graduation rate for American Indian high school students was 49.3 percent in the 2003–04 school year, compared to 76.2 percent for white students (EPE Research Center 2007). Further, only 13.3 percent of Native Americans have an undergraduate college degree, relative to the national average of 24.4 percent.

NIEA sets forth below its highest priorities for Native education policy, program, and funding changes, and affirms its commitment to working in partnership with the new Administration and the 111th Congress on these matters.

1. Strengthen the governance of Native education at the Department of Education by taking the following actions:
 - Elevate the position of the Director of Indian education to an Assistant Secretary. When the Department of Education was created, the current Director of Indian Education position was the Deputy Assistant Secretary of Indian Education. This position formally changed in 1981 to Director of Indian Education Programs and under the Bush Administration was demoted from a SES position to a GS position;
 - Facilitate the coordination of states, tribal governments and communities, neighboring areas, and the federal government working together in developing the educational standards and related assessments through the newly created Assistant Secretary's office;
 - Actively utilize the National Advisory Council on Indian Education (NACIE) to promote policies on Indian education within the Department of Education; and
 - Develop a memorandum of understanding with the Department of Interior to collaborate and coordinate strategies on improving academic achievement for Native students.
2. Support the maintenance and survival of Native American languages in accordance with various federal statutes and to take the following actions:
 - Develop a Native American language grant program at the Department of Education that supports Native language revitalization programs and academic achievement. Research demonstrates that Native children perform better academically when they are taught in a manner that is consistent with their traditions, languages, and cultures;
 - Promote and support the development of public, BIE funded, and charter schools based upon culturally based education and Native language instruction;
 - Promote and support teaching strategies that integrate Native traditional and cultural concepts and knowledge into the curricula; and
 - Fund research focused on the benefits of culturally relevant curriculum and Native language immersion efforts.
3. Issue an Executive Order on Indian Education that promotes interagency collaboration, the use of research based practices in Indian education, and the use of Native language instruction and culturally based education in public and federally funded schools.
4. Convene a White House Conference on the needs of Native youth to develop strategies that implement sound cultural appropriate approaches related to the development of Native children which includes their social, emotional, mental, and physical health. The national graduation rate for American Indian high school students was 49.3 percent in the 2003–04 school year and Native teenagers suffer from poverty, suicide, teen birth, and substance abuse at rates higher than the national average. Given the current status and situation of Native children, the wellbeing of Native children should be an important national priority.
5. Address teacher and school leadership quality and recruitment efforts for Native communities through increased support for Native educators' professional development programs, and provide assistance to schools serving Native students through the Technical Assistance Centers for Indian Education, previously funded by the Department of Education.

6. Improve funding for Indian education programs at the Departments of Education, Interior, and Health and Human Services by taking the following actions:
 - Establish a Native Education Budget Task Force to review data and make recommendations to the Administration's budget for upcoming fiscal years;
 - Forward fund impact aid and tribal colleges; and
 - Fund BIE school construction, Indian Head Start and Early Head Start, tribal education departments, the Johnson O'Malley program at BIE, and Title VII of NCLB.
7. Increase resources and expertise at the Bureau of Indian Education (BIE) to assist tribes and Indian schools that are seeking to develop their own standards and definition of Adequate Yearly Progress and interagency coordination and collaboration to allow BIE schools gain access to the expertise and technical assistance available at the Department of Education.

NIEA encourages the new Administration and the 111th Congress to adopt these policies and believes with good faith collaboration that we can provide our children with an education that honors their Native identity by incorporating into the curriculum their rich cultural heritage, language, traditions, and native ways of knowing, while simultaneously preparing them for successful futures in contemporary Western society.

BRIEFING PAPER

FEBRUARY 9, 2009



REAUTHORIZATION OF THE ELEMENTARY AND SECONDARY EDUCATION ACT/ NO CHILD LEFT BEHIND

INTRODUCTION

NIEA's top legislative priority is to strengthen the education of American Indians, Alaska Natives, and Native Hawaiians through effective and meaningful education programs and approaches in the reauthorization of the No Child Left Behind Act (NCLB). NIEA is working to ensure that Native communities have the resources they need to help Native students succeed academically in schools and meet the language and cultural aspirations of their communities.

NIEA is committed to strengthening NCLB for Native communities through provisions that provide for meaningful involvement of Native people in setting the educational priorities for their students and recognize the educational significance and benefits of the inclusion of Native language and cultural instruction.

NCLB expired in September of 2007. The House Education and Labor Committee and the Senate Health, Education, Labor, and Pensions Committee, the committees with jurisdiction over NCLB, have both indicated that reauthorizing NCLB is one of their top priorities. President Obama lists NCLB reauthorization as one of his top domestic priorities this year. Both congressional committees, at this juncture, state that they intend to seek passage of NCLB reauthorization this year; but

NIEA'S ACTIVE INVOLVEMENT ON NCLB REAUTHORIZATION

Since 2005, NIEA has actively prepared for the reauthorization of NCLB by conducting 11 field hearings with over 120 witnesses in Native communities across the country. NIEA has also conducted numerous listening sessions and meetings with Native students, educators, school administrators, Native parents, and tribal leaders to learn about the challenges Native people face under NCLB. Based upon this extensive dialogue, NIEA prepared its Preliminary Report on NCLB in Indian Country and its NCLB Policy Recommendations.

In 2007, NIEA developed its proposed amendments to NCLB based upon all the input it received over two years and submitted these amendments to the House Education and Labor Committee and the Senate Health, Education, Labor, and Pensions Committee. NIEA fully supports the intent of NCLB to leave NO child behind and proposes that we use traditional Native knowledge, languages, and history as the means through which we attain the educational and academic goals set forth NCLB and, in the meantime, make sure that No Culture is Left Behind.

As an organization of Native educators, NIEA supports high achievement standards for all children and holding public schools accountable for results. Further, NIEA lauds the goal of Title VII of NCLB to meet the unique cultural and educational needs of Native children. Title VII affirms the Federal Government's support for culturally based education approaches as a strategy for positively impacting Native student achievement. NIEA wants to strengthen NCLB to better serve the needs of Native communities, particularly to those who live in remote, isolated and economically disadvantaged environments. NIEA is focusing on several key areas in NCLB as set forth below.

Both Chairman George Miller of the House Education and Labor Committee and Chairman Ted Kennedy of the Senate HELP Committee released draft NCLB bills in the 110th Congress and most of NIEA's proposed amendments were contained in these bills, including provisions that create a Native language immersion and revitalization grant program in Title VII of NCLB within the Department of Education.

At NIEA's requests, both committees of jurisdiction in the House and the Senate have held congressional field hearings on the impacts of NCLB in Indian Country. These hearings were very helpful in providing useful information to the Committees on the educational needs of Native students. These were the first-ever hearings that the Congress has held on the impacts of NCLB in Indian Country. When NCLB passed in 2002, Indian Country was not at the table. This has changed dramatically. Based upon extensive meetings with NIEA and its membership over the past year and a half, the Committees now understand that the Act is leaving Native children behind and that it needs to be fixed to address their unique educational needs.

BACKGROUND AND HISTORY OF NCLB

Seven years ago, NCLB became law. When signing NCLB into law, President Bush stated that NCLB is designed to end the "soft bigotry of low expectations" so that "all students will have a better chance to learn, to excel, and to live out their dreams." NCLB reauthorized the original 1965 Elementary and Secondary Education Act (ESEA), which was a core component of President Lyndon Johnson's "War on Poverty." Title I provided resources for educational programs for the poor. President Johnson said it would help "five million children of poor families overcome their greatest barrier to progress: poverty." Forty years later, the war on poverty continues as many Native communities still live in third world conditions and our educational systems still do not adequately serve Native children.

Congress has reauthorized ESEA eight times with NCLB being the most recent version. The 1994 ESEA reauthorization, called the Improving America's Schools Act, shifted the focus of Title I from providing financial support to schools with high concentrations of children in poverty to standards-based reform. The 1994 ESEA required all states to develop content and performance standards in reading and math and to measure the progress of student achievement in Title I schools through adequate yearly progress (AYP) reports. NCLB expanded the law's requirement to all public schools, not just Title I schools.

NCLB specifies how states must measure student achievement and the timelines they must use. NCLB specifies that all students must be proficient in reading and math by the 2013-14 school year.

NIEA's PRIORITIES DURING THE REAUTHORIZATION OF NCLB

NIEA's key priorities for the reauthorization of NCLB include:

- Improving and Expanding Title VII to Address the Unique Cultural and Educational Needs of Native Children

Title VII of NCLB recognizes that Native children have unique educational needs due to their cultures and

backgrounds. Part A of Title VII contains provisions for American Indian Education; Part B of Title VII contains provisions for Native Hawaiian Education; and Part C of Title VII contains provisions for Alaska Native Education. Title VII provides supplemental grants to local educational agencies, tribes, Native organizations, educational organizations, and others to provide programs and activities to meet academic, cultural, and language needs of Native children. Research supports the principle that it is through our Native culture and language practices that students achieve academic achievement success.

Native children should be given the opportunity to obtain a comprehensive education that allows them to succeed in and contribute to building healthy communities. Native learning is strengthened through instruction that integrates basic skills with traditional cultural and language practices. NIEA supports the strengthening of NCLB to provide a well-rounded education for all children that builds upon our unique culture and languages of Native peoples.

- Improving Cooperation Among Tribes, States, and the Federal Government

NIEA seeks stronger emphasis in encouraging states and tribal governments and communities to work together in developing the educational standards and related assessments. NIEA supports the strengthening of NCLB assessments that considers the cultural and educational needs of Native students. Additionally, NCLB should be amended to require that states involve tribes located within their boundaries in the development of state assessments.

Further, NIEA supports the strengthening of NCLB to provide resources for collaboration among tribes, states, and the Federal Government to allow for increased opportunities in the development of standards that recognize the cultural backgrounds of Native students.

- Strengthening NCLB to Provide Support for Instruction in Native American Languages

NIEA supports the recognition of the uniqueness of Native American languages and the efforts to protect and ensure opportunities for their revitalization and maintenance. These language revitalization and maintenance programs must be incorporated into the NCLB statute so that the implementation of education provisions does not hinder or preclude the offering of Native American languages efforts, including immersion for Native Americans as a part of their educational experience. NCLB must recognize and support Native language revitalization and maintenance efforts of Native American communities.

Titles III, Subparts A and B, as well as Title VII currently allow for Native language instruction; however, these provisions should be strengthened so that schools receive the support they need to help students achieve their educational goals and academic standards through instruction incorporating Native language and culture. Research shows that Native children perform better academically when they are taught in a manner that is consistent with their traditions, languages, and cultures. Given that Native children are performing at far lower academic achievement levels than other categories of students, Title VII programs should be expanded and strengthened.

- Improving Support for Teachers of Native Students

Many Native communities are located in rural areas where the number of highly qualified teachers is in short supply. NIEA supports career ladder programs for Native teachers in Titles II and VII. These programs would build capacity within Native communities for increasing the pool of teachers and provide support for Native teachers and teachers of Native students for improved professional development through pre-service and in-service training.

- Improving Opportunities for Parents, Families, and Tribes and other Native Communities to Participate in the Education of Native Children

The schools that are successful are the schools where the parents, families, tribes, and the local communities are actively involved and engaged in the school's programs and activities. NCLB should be strengthened to allow increased opportunities for parents, families, and tribes and other Native communities to become more involved in their children's schools and in the development of their educational programs.

NIEA advocates for increased parental involvement through improving their knowledge, skills and understanding of standards-based education and school accountability. NIEA supports the promotion of standards-based education as a family responsibility that helps children to achieve.

- Improving the Measurement System for Adequate Yearly Progress

The current accountability system needs to be strengthened to allow for academic achievement measures of student growth and progress over a period of time within the 2014 goal. Instead of focusing on state-wide standardized tests in math and reading only content areas, NCLB could be strengthened to include success on multi-disciplinary and multi-level curriculum and instruction as additional measures of achievement.

Many factors in Native communities affect student and school achievement, such as poverty, transportation, poor health care, and poor housing. NIEA supports the encouragement of best practices that increase Native student academic achievement but also seeks flexibility in achievement measures to accommodate these extenuating factors.

Further, flexibility in the measurements for accountability could accommodate Native language immersion programs, which have been proven to significantly increase Native student academic achievement over time. Research has shown that fluency in a Native language increases fluency in English and learning other languages.

- Requiring the Collection of Data and Research on the Education of Native Children

NIEA supports the strengthening of NCLB by providing resources to conduct culturally based research. NIEA supports best practices research so that there is better information on ways to improve Native student achievement as well as academic measures of school success. NIEA supports the strengthening of NCLB to build capacity in Native education systems to develop, implement, collect and analyze systematic data on the educational status and needs of Native students. NIEA supports the strengthening of NCLB through partnerships with Native educational school systems and the Departments of Education and Interior. These partnerships could be used to create research initiatives focused on Native education program services and program accountability.

- Increasing Funding for NCLB, especially Title VII

When NCLB was enacted, Congress promised to provide the resources necessary to meet its many requirements, provide school improvement funds to schools that failed AYP, provide increased resources for disadvantaged students, and to help close achievement gaps by improving teacher quality, student achievement, and program accountability. However, NCLB has never been funded at the authorized levels.

NIEA supports the strengthening of Title VII through sufficient resources for pre-service and in-service training, resources that support national research activities, fellowships for Native students, programs for gifted and talented Native students, grants to tribes for education administrative planning and development, educational services programs for Native students, and educational opportunity programs for Native students. Only by funding these critical programs on a sustained basis can we truly ensure that No Child is Left Behind. NIEA supports the strengthening of NCLB by ensuring that Title VII resources cannot be siphoned away to meet the shortfalls in other Titles of NCLB.

BRIEFING PAPER

FEBRUARY 9, 2009



INSUFFICIENT FUNDING FOR THE CONSTRUCTION AND REPAIR OF BIA SCHOOLS

THE CURRENT BIA SITUATION

The Federal government is responsible for 184 Indian schools funded by the Bureau of Indian Affairs (BIA). The BIA funds approximately 4,500 facilities in Indian country, which serve more than 60,000 students and more than 238 federally recognized Indian tribes located in 23 states. As of 2000, half of the school facilities in the BIA's inventory exceeded their useful lives of 30 years, and more than 20 percent were over 50 years old.

The BIA currently receives appropriated funds for the replacement of unsafe and outdated schools; 81 of 184 BIA schools are in need of major repairs or replacement. The order in which schools receive funding is determined by the BIA under the Education Facilities Replacement Construction Priorities List. The amount appropriated to fund the repair and replacement of Tribal schools for FY 2008 has been dramatically reduced to only \$145.20 million, well below the amount needed for adequate funding. At that level, it will take a decade to repair and replace schools that need funding today.

The OIG audit. The Interior Department's Office of Inspector General (OIG) visited 13 BIA schools as part of a department-wide audit and found severe deterioration at elementary and secondary schools that directly affects the health and safety of Indian children and their ability to receive an education. Deterioration ranged from leaking roofs to classroom walls buckling and separating from their foundation. The OIG issued a Flash Report in May of 2007 warning the failure to mitigate these conditions will likely cause injury or death to children and school employees.

THE INDIAN SCHOOL CONSTRUCTION ACT

Introduced again in the 111th Congress, the text of the bill is under consideration for inclusion in the pending stimulus legislation. Thus far, 200 million per year for 2009 and 2010 has been allocated for Indian school construction in the stimulus bill.

Summary of the bill:

- The Indian School Construction Act would create an Indian School Bonding program and give schools a new, voluntary option for funding school construction.
- This program does not require any payments by the schools or Tribes. In fact, in combination with the Indian Self-Determine and Education Assistance Act, for the first time, Tribal Schools may be repaired and replaced using local architects, engineers, artisans and financial institutions, all selected by the Tribes themselves.
- Under this program, up to \$200 million in Qualified Tribal Modernization Bonds could be issued annually to provide funding for the construction of school facilities in the BIA system.
- The bonds would provide tax credits to bond holders in lieu of interest.
- The priority for school funding would follow the Education Facilities Replacement Construction Priorities List as identified by the BIA.

BRIEFING PAPER

FEBRUARY 9, 2009



FUNDING AMERICAN INDIAN-ALASKA NATIVE HEAD START AND EARLY HEAD START

BACKGROUND INFORMATION

Indian Head Start is one of the most important and successful Federal program focused on the dire circumstances faced by all too many Native children, principally because it addresses health, education, family and community needs in a holistic manner that is akin to traditional Native learning styles and cultural practices. Nevertheless, only approximately 15.4% of the age-eligible Indian child population is enrolled in Indian Head Start (of the approximately 562 federally recognized tribes, only 188 have Head Start programs). Native children face a difficult learning environment: the Indian reservation poverty rate is 31.2%, nearly three times the national average of 11.6%; an additional 30% of the Indian reservation population is only just above the poverty line, with there being no significant reservation middle class or upper class; the Indian reservation unemployment rate is approximately 50%, ten times the national unemployment rate of 5.2%; and the violent crime rate on some reservations is six times the national average.

HEAD START ACT REAUTHORIZATION

In December 2007, the Head Start Act was reauthorized and included a number of positions that NIEA supported (working in close collaboration with the National Indian Head Start Directors Association) including (but not limited to): special expansion funds for Indian Head Start, Indian programs do not have to have their plans approved by the State Governor; authorization for grants for at least 5 years to Tribal colleges and universities to increase the number of AA, BA and graduate degrees in ECE; authority for grantees who have both Head Start and Early Head Start to move funded slots back and forth.

ECONOMIC STIMULUS

Both the Senate and the House have developed economic stimulus proposals that would, over a two-year period, provide \$1 billion for Head Start and \$1.1 billion for Early Head Start, for a total increase of \$2.1 billion. The exact amount that the AIAN Head Start and Early Head Start program would receive under this proposal is uncertain. As the Head Start Act currently provides that AIAN Head Start programs would receive, after an initial period of special expansion funds, 3% of all expansion funds, Indian Head Start advocates have asked that a similar set aside be provided for both Indian Head Start and Indian Early Head Start funds under the Economic Stimulus proposal.

KEY RECOMMENDATIONS

- The Economic Stimulus legislation should specifically provide that AIAN programs shall receive at least 3% of the Head Start and 3% of the Early Head Start funding.
- Matching requirements should be waived for economic stimulus funding,
- Funding should go towards quality as well as expansion purposes (e.g., increased staffing, professional development, transportation equipment, computer technology/web access, facility renovations and repair, etc. Expansion – full-day, full year services, conversion from HS to EHS, etc.).
- FY 2009 and FY 2010 appropriations should be sufficiently above FY 2008 funding levels as to trigger Indian special expansion funds (they can only be awarded out of funding above 50% of COLA).

BRIEFING PAPER

FEBRUARY 9, 2009



HIGH SCHOOL EQUITY FOR NATIVE STUDENTS PREPARING NATIVE STUDENTS TO ENTER COLLEGE AND THE WORKFORCE

Every school year, about 1.2 million students drop out of our nation's high schools, leaving almost one of every three freshmen without a high school diploma four years later (Swanson 2004). Dropouts are more likely than high school graduates to experience poverty, poor health, and incarceration during their adult lives¹, and for Native² students, this disparity is even more pronounced. While roughly 70% of high school students graduate on time, American Indian and Alaska Native students have only a 55% chance or less of graduating high school with a regular diploma (Greene and Winter, 2006). Ongoing gaps in Native student achievement, inadequate access to high quality teachers, lack of access to college ready curriculum, and insufficient funding for high school reform in Indian Country all contribute to a graduation crisis for Native students.

For the past year NIEA has been working with Indian Country to develop policy recommendations that ensure wider implementation of best practices and college ready policies. As part of the Campaign for High School Equity³, NIEA is advocating on both the national and state level for the redesign of the American high school and the promotion of instructional practices designed to meet the needs of Native students and prepare them for college and work, including:

- Increased attention on the national, state, and district levels for Native students needs in states and school districts with high Native populations to increase retention and graduation rates of Native students.
- Supportive federal and state policies to increase Native student access to rigorous curriculum and inclusion of Native languages, cultures and histories to improve student achievement and attainment.
- Quality schools that better serve Native students through access to rigorous curriculum, and adequate support to ensure they can meet higher expectations including culturally relevant curriculum.

Furthermore, NIEA believes that in order for a student to be prepared for college and the workforce, that the student must first be engaged in school through a rigorous curriculum that incorporates culturally relevant components such as Native languages, Native traditions, and Native histories.

STATUS OF NATIVE STUDENTS IN HIGH SCHOOLS

Unfortunately, many American Indian and Alaska Native students do not receive the support they deserve from their respective learning communities. The diversity of the Native community, as well as the great contrast between the urban and rural circumstances of Native people, makes it difficult to generalize the reasons for the high drop-out rate of Native students. While there is accessing reliable information and research about high school reform within Native education is an ongoing challenge, we do know that Native High School students are struggling.⁴

- The national graduation rate for American Indian high school students was 49.3 percent in the 2003–04 school year, compared to 76.2 percent for white students and 50.6% in the 2004-05 school year, as compared to almost 78% for white students (EPE Research Center 2007 and 2008).
- Only 44.6 percent of American Indian males and 50 percent of American Indian females graduated with a regular diploma in the 2003–04 school year, while 45.8% of American Indian males and 52.5% of females did so in the 2004-05 school year, (EPE Research Center 2007 and 2008).

- American Indian and Alaska Native high school students who graduated in 2000 were less likely to have completed a core academic track than their peers from other racial/ethnic groups (U.S. Department of Education, National Center for Education Statistics 2005b).
- Native Hawaiian students experience pronounced absenteeism and are the least likely of the major ethnic groups to graduate from high school within four years (69.3 percent versus 76.7 percent statewide).
- Often, the civil rights and cultural identities of American Indian and Alaska Native students are not supported in the classroom (U.S. Commission on Civil Rights 2003).
- Studies indicate that American Indian and Alaska Native students often experience difficulty establishing relationships with their teachers and other students; additionally, they are often subject to racist threats and frequent suspension (Clarke 2002; U.S. Commission on Civil Rights 2003).

POLICIES TO SUPPORT NATIVE GRADUATION AND COLLEGE AND WORK READINESS

Ensuring that all young people graduate from high school ready for college work and life takes the concerted, coordinated efforts of educators, students, policy makers, parents, and business and community leaders. Policy is one arena that these efforts can produce sustainable changes. NIEA, in conjunction with the Campaign for High School Equity, has developed the following policies that should be implemented on a national and state level:

Graduation Rate Accountability

High school graduation rates are a key component of the public reporting and accountability provisions of the No Child Left Behind Act (NCLB). NCLB allows for states to determine their own methodology for tracking and reporting graduation rates. Almost every state reports inaccurate and inconsistent data on high school graduation rates for all students, including Native students. The high transfer rate of Native students between schools, including public and Bureau of Indian Affairs funded, makes it difficult to track graduation rates for Native students. Many Native students transfer between schools during the course of an academic year for a variety of reasons.

The new Title I regulations for calculating and reporting high school graduation rates⁵ go a long way in ensuring accurate and uniform data for Native high school graduation rates go a long way in ensuring accurate and uniform data for Native high school students. NIEA supports the new regulations and their requirements to define and determine graduation rates according to a common standard of a four-year adjusted cohort rate and the use of longitudinal data systems and individual student identifiers to follow every child's path to graduation.⁶ NIEA also supports an NCLB accountability system that requires schools to increase their disaggregated data on graduation rates over time and to consider graduation rates on an equal footing with high quality assessments aligned to college and work readiness in determining school quality. In addition, NIEA is encouraged by the requirement that states be aggressive about improving graduation rates, including requiring states to set a single graduation rate goal for the entire state and to designate targets each year that will indicate steady progress in meeting the graduation rate goal for all students.

Rigorous and Culturally Appropriate Curriculum

Native students benefit from quality schools that better serve their needs through access to rigorous curriculum in core subjects, access to highly qualified teachers, and access to cultural and language based education. NIEA, in conjunction with the Campaign for High School Equity, supports policies that align high school standards, assessments, curriculum, and instruction with college and work readiness standards, including critical thinking and problem solving skills.

For Native students, a high quality education is one that is relevant and rigorous. NIEA strongly supports the use of a culturally based curricula and culturally appropriate education that incorporate Native histories and languages in a way that creates a 200% education - 100% academically rigorous and 100% rigorous preparation within the context of the communities and cultures of Native students. Culturally based educational approaches for Native students have been proven to retain and engage students, increase their performance and success, as well as awareness and knowledge of student cultures and histories, and incorporate the elements students need to succeed in school; relevance, relationships, and rigor. In general, these approaches include recognizing and utilizing Native languages as a first or second language, pedagogy that incorporates traditional cultural characteristics and involves teaching strategies that are harmonious with the Native culture knowledge and contemporary ways of knowing and learning. Culturally based education involves parents, elders and cultural experts as well as other community members' participation in educating Native children utilizing the social and political mores of the community.⁷

The efforts of states such as Montana's *Indian Education for All* legislation and Washington State's HB 1495 legislation to teach tribal histories, cultures, and governments to all students serve to further underscore the widespread benefits of cultural based education.

NIEA strongly believes that the integration of culturally based education methods as part of a high quality rigorous curricula, will result in higher academic achievement among Native students and increased graduation rates, ultimately resulting in students better prepared to enter college and the workforce.

Tribal Involvement

Schools successfully serve Native students when the parents, families, tribes, and the local communities are actively involved and engaged in the school's programs and activities. State and federal policies should be strengthened to allow increased opportunities for parents, families, and tribes and other Native communities to become more involved in their children's schools and in the development of their educational programs. States and school districts that serve tribal communities should include tribal representatives in the development of school plans to ensure they meet the unique educational and cultural needs of Native students.

NIEA supports the NCLB focus on parent and community involvement through improving their knowledge, skills and understanding of standards based education and school accountability. NIEA supports federal and state policy in the promotion of standards based education as a family responsibility that helps children to achieve.

NIEA encourages all policy makers, state and federal, to take a critical look at current policies and make sure that they fully support Native students graduating from high school ready for college and the workforce

CURRENT PRACTICES THAT PROMOTE NATIVE STUDENT GRADUATION - EARLY COLLEGE HIGH SCHOOLS

Although Native students have the highest high school drop-out rates and the lowest college completion rates of any group in the United States, there are a variety of emerging practices that have demonstrated success for Native students. The Early College High School Initiative,⁸ an innovative program supported by the Center for Native Education at Antioch University in Seattle, Washington provides students with a culturally relevant, academically rigorous, small high schools, while blending local cultural content, and college requirements in their curricula. In early college high schools, students can earn up to two years of college credit free of charge while completing their high school diplomas.⁹

Early colleges engage tribal communities in the education of their young people and use a collaborative system of governance where tribal, secondary and postsecondary stakeholders share responsibility for school planning, implementation, evaluation and success. The success of each early college depends on deep collaboration between high school, college and tribal partners. Together, they develop an early college high school, offering Native students up to two years of college credit while simultaneously earning their high school diplomas.

All early colleges promote rigor, relevance, and relationships throughout their curricula. Academic rigor is reflected when an early colleges couple a core curriculum with student supports to produce strong academic results. These include gains on state proficiency exams, average daily attendance, number of college credits earned by high school students, parent/family satisfaction, progression and graduation rates, and college acceptance, enrollment and college graduation rates. Relevance is reflected when the early college curriculum is co-developed and co-taught by tribe and schools alike to spark student interest and relate clearly to students' lives in today's rapidly changing world. With a relevant curriculum, the early college teaches students how to be contributing members of their tribal communities and prepares them for successful academic and professional futures. Relationships are reflected when each student at an early college has adult mentors from their community, tribe, school and college who know them and help them achieve.

Early outcomes from early colleges for Native youth, compared with national norms for all Native American students indicate the following:

- 100% of students receive college preparatory curriculum compared with 26% of students not attending early college high schools.
- Average daily attendance for early college students is 90%, as compared to 75% of non-early college students.
- Graduation rate is 85% for those who entered early college settings, compared to rate of 59% for those not attending an early college.

Early colleges in Native communities construct a five-year course sequence that offers high school and dual credit college courses in grades 9-13. The curriculum provides extra academic support for students, integrates American Indian and Alaska Native culture into most of the courses and ensures that the tuition-free course of study will lead to a transfer degree or its equivalent. Community engagement in early colleges is crucial and equal governance by tribal, secondary and postsecondary partners, in tandem with input from families, community members, elders and leaders, have allowed early colleges for Native youth to become true community institutions.

In addition, distance and online learning; tribal schools; experiential education; Native youth leadership development; and high quality alternative education programs are emerging as a powerful options to provide access to advanced coursework, for concurrent college course credit and credit recuperation, and as opportunities to support the mental, emotional, and physical wellbeing of Native high school students. While more evaluation and research is needed to determine the impact on Native student achievement, anecdotal evidence suggests that these practices can be important in establishing multiple responsive and appropriate pathways for Native student graduation.

THE IMPORTANCE OF PARTNERSHIPS

NIEA believes that the inclusion of Native student achievement and graduation data on both national and state levels is critical to raising the awareness and garnering support for policies that support the success of Native high school students. In addition, NIEA believes that increased efforts to share information about policies and practices can make a positive difference in the success of Native high school students.

To this end, NIEA is actively promoting the inclusion and dissemination of Native student data and information in its work with the Campaign for High School Equity. These partnerships have enabled NIEA to increase the awareness of policymakers around issue of Native high school graduation and the importance of culture and language in Native education. In addition, ongoing partnerships with tribes, tribal organizations, states offices of Indian Education, and local Indian Education Associations have informed the shaping of national high school graduation policies that better serve Native students. These partnerships have also contributed to the sharing of best practices and common concerns, including the upcoming **National Forum on Dropout Prevention Strategies for Native and Tribal Communities**.¹⁰

NIEA is committed to partnerships with national, regional, and local education organizations and agencies in order to establish regular and consistent opportunities to prioritize the needs of Native high school students through the sharing of data and innovations.

CONCLUSION

NIEA encourages all education stake holders, parents, tribal leaders, school board members, state and federal policy makers to take a hard look at the current state of high schools for Native students and develop and implement policies based on practices proven to work with Native students. Access to rigorous curriculum that includes components of a culturally based education, greater access to highly qualified teachers, and access to high quality and performing schools, for Native students will keep them engaged in high school and prepared to graduate with the skills needed to be successful in college or the workforce.

References

¹ See the Campaign for High School Equity, *A Plan for Success: Communities of Color Define Policy Priorities for High School Reform* (2007), available at www.highschoolequity.org

² In the context of this briefing paper, the term "Native" includes American Indian, Alaska Native, and Native Hawaiian students.

³ The Campaign for High School Equity (CHSE) is a coalition of national civil rights organizations representing communities of color that believe that high schools should have the capacity and motivation to prepare every student for graduation, college, work, and life. Members of the Campaign include the Leadership Conference on Civil Rights Education Fund, the League of United Latin American Citizens, the Mexican American Legal Defense and Educational Fund, the National Association for the Advancement of Colored People, the National Association of Latino Elected and Appointed Officials Educational Fund, the National Council of La Raza, the National Indian Education Association, the National Urban League, and the Southeast Asia Resource Action Center.

⁴ See the "American Indian and Alaska Native Students and U.S. High Schools" from the Alliance for Excellent Education, available at http://www.all4ed.org/files/AmerIndianAKNative_FactSheet.pdf

⁵ See the new regulations at <http://www.ed.gov/policy/elsec/prop/proposal/uniform-grad-rate.html>

⁶ The new regulations require states to use a four-year adjusted cohort graduation rate as the uniform standard. This means that states and school districts must calculate their graduation rates by dividing the number of students who graduate in four years with a regular high school diploma by the number of students who entered high school four years earlier. Furthermore, before schools can stop counting a student as part of their cohort, they must have written confirmation that a student has enrolled in another school or program that will result in the student receiving a regular high school diploma. This will improve accountability for Native students by requiring school districts and states to verify where Native students are enrolled and if they are still in school.

⁷ Demmert, W.G. & Towner, J.C. (2003). *Final Paper: A Review of the Research Literature on the Influences of Culturally Based Education on the Academic Performance of Native American students*. Northwest Regional Educational Laboratory, Portland, OR. Available at <http://www.nwrel.org/indianed/cbe.pdf>

⁸ Information included in this document regarding the Early College High School Initiative may be found at <http://www.centerfornativeed.org/colleges.html>.

⁹ There are currently twelve early college high schools that have at least a 50% Native population. These schools are: Medicine Wheel Academy, Spokane, WA, Ferndale Early College, Ferndale, WA, Tulalip Heritage Early College, Marysville, WA, Wellpinit Early College, Wellpinit, WA, Klamath River Early College, Klamath, CA, Shelton Early College, Shelton, WA, La Conner Early College, La Conner, WA, Siletz Valley Early College Academy, Siletz, OR, Effie Kokrine Early College Charter School, Fairbanks, AK, Native American Early College Academy, Portland, OR, Suquamish Early College Prep, Suquamish, WA, and Walatowa Early College Charter School, Jemez Pueblo, NM.

¹⁰ National Forum on Dropout Prevention Strategies for Native and Tribal Communities is the result of a partnership of the Arizona Department of Education's Native American Dropout Prevention Initiative, the National Dropout Prevention Center, and NIEA that will take place April 19-22, 2009 in Phoenix, AZ. For more information see: http://www.dropoutprevention.org/conferen/conferen.htm#2009_Native_American

BRIEFING PAPER

FEBRUARY 9, 2009



TRIBAL EDUCATION DEPARTMENTS

Tribal Education Departments (TEDs) serve thousands of tribal students nationwide, in BIA, tribal, and public schools. TEDs work on reservations, in urban areas, and in rural areas. They have positive impacts on early childhood, K-12, higher, and adult education. The role of Tribal Education Departments (TEDs) in the preservation of our histories, cultures and languages cannot be overstated. TEDs are the key to our futures, and to our children's futures, empowering tribal members (and future tribal leaders) with the knowledge that helps ensure that they are best prepared for work, for leadership, and for life.

TEDs are working to achieve these goals by developing and administering sound educational policies; by gathering and reporting data relevant to Native students, and by performing or obtaining critical research and analyses to help tribal students from early childhood through higher and adult education in all kinds of schools and school systems.

Unfortunately, too many of our TEDs lack sufficient resources to accomplish their missions. Our language and culture preservation and revitalization efforts desperately need good recording devices, videos, and computers. Our students, teachers, and parents need ready and reliable access to today's digitized information world. Increases in funding to address these needs are desperately needed to assist TEDs to strengthen tribal communities and partner with the federal and state governments and schools to improve education for tribal students.

OMNIBUS AND FY 2010 FEDERAL BUDGET REQUEST

Funding for TEDs has been authorized by Congress TED appropriations in two separate laws:

- 1) In 1988 Congress authorized appropriations for TEDs within the BIA budget of the U.S. Department of the Interior (Pub. L. No. 100-297, Section 5199); and
- 2) In 1994 Congress authorized appropriations for TEDs in the budget of the U.S. Department of Education (Pub. L. No. 103382, Section 9125).

Both of these authorizations are retained in the No Child Left Behind Act. However, Congress never has actually appropriated funding for TEDs under these authorizations. **The funding request from Indian Country for TED programs is at a level of \$5 million from both Department of the Education and the Department of Interior. If funded, even this modest amount would have a significant impact on Indian education.**

TEDs are responsible for many of the functions for which a State Education Department or Agency would be responsible, including setting meaningful education policies and regulations; collecting and analyzing education data; engaging in education planning; setting academic standards and developing student progress assessments; and determining what students learn and how it is taught. Currently most TEDs operate on extremely small budgets with federal funding limited to contract, grant, and program administration. TEDs typically do not have funds for operational expenses and staff to conduct education research and planning or to develop tribal education initiatives and materials like truancy programs and curricula despite the fact that Native students need these services to close the reported achievement gaps and perform well in school.

BRIEFING PAPER

FEBRUARY 9, 2009



FUNDING INDIAN EDUCATION THROUGH IMPACT AID

BACKGROUND INFORMATION

The federal government established the Impact Aid program (Title VIII of the No Child Left Behind Act) under the Truman Administration. Its purpose is to provide direct payments to public school districts as reimbursement for the loss of traditional property taxes due to a federal presence or federal activity. Because many public school districts that serve Native American children cannot draw tax revenue from Indian land or sales made on Indian land, they rely heavily on Impact Aid funding. In fact, many of the 640 Indian impacted school districts are totally dependent on these resources to operate. In addition to Indian impacted school districts, Impact Aid also assists school districts that serve children in low rent housing, children of military servicemen and service women, and children with civilian parents that work on federal property.

FUNDING SHORTAGE AND ANTICIPATED SHOCKS

Impact Aid was last fully funded in 1960, and our school districts have had to go to great lengths to make the most of these limited resources. A prorated distribution of available revenues is employed based on a combination of the percentage of impacted students, percentage of a school's budget that impact aid funds represent, and the local contribution rate. This complex negotiation is made more difficult with the anticipated influx of 32,000–40,000 military children returning home with their parents as part of military modernization measures. These children will swell the recipient pool, which will lead to a smaller portion of Impact Aid dollars for everybody.

SCHOOL FACILITIES AND CONSTRUCTION FUNDING

It is imperative that Impact Aid retain a strong construction budget. Because of lack of funding, Indian children are forced to attend schools with severe infrastructure damage. Many Indian impacted school districts lack the local resources with which to bond for building projects and often go to absurd lengths to raise small amounts of money. For example, due to lack of funding and resources, the New Town School District in North Dakota, a heavily impacted Indian school, passed a 15-year bond measure for \$90,000 (\$6,000 per year) for teacher housing. The total cost was \$280,000 and the school district made up the difference through such activities as raising the price of tickets by \$2 at high school athletic events and donations.

Also, a few years ago, the National Indian Impacted Schools Association conducted a facility survey. It highlighted what we all know: many of the impacted schools of Indians are in deplorable condition. Further, almost every single district serving federally connected Indian children reported a major need for facility

improvement. Over 60% of the districts have not passed a bond issue in the past twenty years due to scarce resources.

In recent years, Administration budgets have proposed to cut school construction funding. In response, the Impact Aid community agreed to make up the difference by taking funds away from basic support, resulting in less grant funds for eligible recipients. Schools should never be forced to make this kind of decision.

The Future of Impact Aid.

In this tight budgetary environment, we must all remain vigilant to ensure the vitality of this program. Impact Aid is responsible for providing our children with the resources to succeed. Indeed, many of our schools would simply cease to operate without it.

BRIEFING PAPER

FEBRUARY 9, 2009



THE JOHNSON O'MALLEY PROGRAM

BACKGROUND INFORMATION

The Johnson O'Malley program grants are the cornerstone for many Indian tribes, school districts, tribal organizations, and parent committees in meeting the unique and specialized educational needs of Indian students enrolled in public schools or non-sectarian schools. The purpose of JOM grants is to provide supplementary financial assistance for Indian students. The Johnson O'Malley Program meets the focused goal of academic achievement by providing Indian students ages 3 to grade 12 with supplemental educational programs or support so that these students can pursue educational opportunities and attain academic success. Many Indian children live in rural or remote areas with high rates of poverty and unemployment, and funds from JOM have historically provided basic resources so that Indian students can participate in school like their non-Indian peers, which, in turn, gives them a chance to achieve academically and meet Annual Yearly Progress targets.

JOM has separate statutory authority and a separate purpose from the No Child Left Behind Act. The Johnson O'Malley Act was enacted in 1934 to allow the Department of the Interior to provide assistance to Indians in the areas of education, medical attention, agricultural assistance, social welfare, and relief of distress because of findings that Indians needed support to transition from Indian-only settings to general population settings such as the environments found in public schools and in urban areas. The findings in 1934 are still the case today in many parts of Indian Country.

HOW IT WORKS

Under the JOM program, tribes, tribal organizations, States, and school districts are eligible to contract with the BIA for JOM funds for supplemental or operational support programs. Tribes who wish to contract with the BIA for JOM funds must notify the BIA of their interest the preceding school year for which the contract will be let and must comply with the contracting requirements set forth in P.L. 93-638, the Indian Self-Determination and Education Assistance Act of 1975, as amended, which requires statements of work, education plan budgets, budget justifications, and annual performance reports.

Prospective contractors who are not tribes must, among other things, obtain approval from the relevant Indian Education Committee of an education plan that becomes a part of any contract awarded. The Indian Education Committee is a committee comprised of parents of eligible Indian students enrolled in the school affected by the contract who are selected by the Tribe affected by the contract. The Indian Education Committee can also be the local school board if it is composed of a majority of Indians. Among other things, the Indian Education Committee participates in the development, implementation, and evaluation of all programs; recommends curricula, including texts, materials, and teaching methods; recommends criteria for employment in the program; nominates qualified educational programmatic staff that the contractor is required to select; evaluates staff performance and program results; recommends cancellation or suspension of a contractor to the BIA if the contractor does not allow the Indian Education Committee to exercise its powers; makes an annual

assessment of the learning need of Indian children in the affected community; has access to all needed reports, evaluations, surveys and other program and other budget related documents; hears grievances related to programs in the education plan; and holds meetings on a regular basis that are open to the public.

The education plans required in JOM contracts must, among other things, contain: (1) educational goals and objectives which adequately address the educational needs of the Indian students to be served by the contract; (2) the program or programs developed and approved by the Indian Education Committee; (3) established State standards and requirements and descriptions of how State standards and requirements will be maintained; (4) program goals and objectives related to the learning needs of Indian students; (5) procedures and methods to be used in achieving program objectives, including ways in which parents, students, and communities are involved in determining needs and priorities; (6) overall program implementation including staffing practices, parental and community involvement, evaluation of program results, and dissemination of the results; and (7) determination of staff and program effectiveness in meeting the stated needs of target students.

JOM PROGRAM AND SERVICES

In February 2006, in response to an inquiry from the Senate Indian Affairs Committee about JOM, NIEA sent a survey to its membership about the services their schools are providing to Indian students with JOM funds. The response was overwhelming. The responses show how JOM funding, even though it is extremely limited due to BIA budget constraints (it averages out to less than \$50 per child), is being used across the country in a variety of basic as well as innovative ways to assist Indian students to achieve academically. Moreover, the responses demonstrate how JOM funding is used to provide vital programs designed to build self-esteem, confidence, and cultural awareness so that Indian students can grow up to become productive citizens within their communities.

Survey participants stated that JOM funds helped students achieve and succeed by providing such services as: books and other reading materials, tutoring services, summer school, scholastic and testing fees, school supplies, youth leadership programs, musical instruments, student incentive programs, teacher aides, communication and transportation services, eyeglasses and contacts, resume counseling, college counseling, financial aid counseling, fees for athletic equipment and activities, caps and gowns, art and writing competitions, day care services for teen parents in school, field trips, elders in classrooms, Native language classes, awards ceremonies, computer labs, home visit counseling, Native academic competitions, teen outreach programs, internships, and choir, band, and cheerleading uniforms and equipment. Titles I and VII of the No Child Left Behind Act and impact aid do not permit funding for many of these important educational activities.

These responses demonstrate the need to continue funding JOM due to its effectiveness. The JOM program meets the basic educational needs of Indian students, assists them in achieving academically, provides educational and cultural opportunities, promotes self-confidence and self-esteem, and creates and maintains parental, community, and tribal support networks for them.

FUNDING

NIEA urges Congress to fund the Johnson O'Malley Program at total of \$24 million, which was the amount of funding for JOM in FY 1994. Even back then, the needs of Indian children far exceeded the amount of funding. This does not factor in inflation, growing populations, and growing needs.

Underfunding for JOM is exacerbated by certain factors. In 1995, a freeze was imposed on JOM funding through DOI, limiting funds to a tribe based upon its population count in 1995. The freeze prohibits additional tribes from receiving JOM funding and does not recognize increased costs due to inflation and accounting for population growth. NIEA urges that the JOM funding freeze be lifted and that other formula-driven and head count-based grants be analyzed to ensure that tribes are receiving funding for their student populations at a level that will provide access to a high quality education.